

Chapter 30.62A

WETLANDS AND FISH & WILDLIFE HABITAT CONSERVATION AREAS

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PART 000 General.**30.62A.010 Purpose and applicability.**

(1) The purpose of this chapter is to provide critical area regulations pursuant to the Growth Management Act (chapter [36.70A](#) RCW) for the designation and protection of:

- (a) Wetlands, and
- (b) Fish and wildlife habitat conservation areas including:
 - (i) streams, including those planted with game fish by a governmental or tribal entity;
 - (ii) lakes, including those planted with game fish by a governmental or tribal entity;
 - (iii) naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat, including those planted with game fish by a governmental or tribal entity. Reference to "lake" or "lakes" in this chapter includes naturally occurring ponds under 20 acres and their submerged aquatic beds that provide fish or wildlife habitat;
 - (iv) marine waters;
 - (v) primary association areas for critical species; and
 - (vi) state natural area preserves, natural resource conservation areas, and state wildlife areas.

(2) This chapter applies to:

(a) Development activities, actions requiring project permits, and clearing, except for the following:

- (i) Non-ground disturbing interior or exterior building improvements;
- (ii) Routine landscape maintenance of established, ornamental landscaping;
- (iii) Non-ground disturbing normal maintenance or repair;
- (iv) Removal of noxious weeds conducted in accordance with chapter [16-750](#) WAC;
- (v) Maintenance or replacement that does not expand the affected area of the following existing facilities:
 - (A) septic tanks and drainfields;
 - (B) wells;
 - (C) individual utility service connections; and
 - (D) individual cemetery plots in established and approved cemeteries;
- (vi) Data collection and research by nonmechanical means if performed in accordance with state-approved sampling protocols or Endangered Species Act (ESA) Section 10(a)(1)(a), Section 7 consultation ([16](#) USC § [1536](#));
- (vii) Nonmechanical survey and monument placement; and
- (viii) Quasi-judicial rezones not accompanied by another permit or approval.

(b) Agricultural activities, which are subject only to Part [600](#) of this chapter. (Added by Amended Ord. 06-061, Aug. 1, 2007, Eff date Oct. 1, 2007; Amended by Amended Ord. 13-042, July 10, 2013, Eff date July 22, 2013; Amended by Amended Ord. 15-034, Sept. 2, 2015, Eff date Nov. 1, 2015; Amended by Ord. 17-039, July 12, 2017, Eff date Aug. 3, 2017).

30.62A.015 Intent.

It is the intent of this chapter to provide the protection required by chapter [36.70A](#) RCW for wetlands and for fish (&)) and wildlife habitat conservation areas while simultaneously

protecting property rights. The county council nevertheless recognizes that implementation of some provisions of this chapter [30.62A](#) SCC will inevitably entail some restriction of property rights. It is the intent of the county council that this chapter be always construed and interpreted so that property rights be restricted no further than strictly necessary for the critical area protection required under chapter [36.70A](#) RCW. (Added by Amended Ord. 06-061, Aug. 1, 2007, Eff date Oct. 1, 2007).

30.62A.020 Relationship to Snohomish County Shoreline Management Program.

Protection of wetlands and fish and wildlife habitat conservation areas located within shorelines of the state, as defined in chapter [90.58](#) RCW, shall be accomplished through compliance with the provisions of chapter [30.67](#) SCC. Nothing in this section shall be construed to be inconsistent with RCW [36.70A.480](#). (Added by Amended Ord. 06-061, Aug. 1, 2007, Eff date Oct. 1, 2007; Amended by Amended Ord. 15-034, Sept. 2, 2015, Eff date Nov. 1, 2015).

30.62A.030 Relationship to chapter 30.61 SCC - environmental impacts.

Critical area protective measures required by this chapter shall also constitute adequate mitigation of adverse or significant adverse environmental impacts on wetlands, fish and wildlife habitat conservation areas, and their buffers pursuant to chapter [30.61](#) SCC, to the extent permitted by RCW [43.21C.240](#). (Added by Amended Ord. 06-061, Aug. 1, 2007, Eff date Oct. 1, 2007).

30.62A.040 Rulemaking authority.

The director shall have the authority to adopt administrative rules to implement the provisions of this chapter. Rulemaking authority shall include, but is not limited to, the adoption of best management practices for the regulation of wetlands, fish and wildlife habitat conservation areas, and buffers. (Added by Amended Ord. 06-061, Aug. 1, 2007, Eff date Oct. 1, 2007).

PART 100 Process Requirements.

30.62A.110 Permit pre-applications.

Project proponents may request a pre-application meeting pursuant to SCC [30.70.020](#) to obtain a preliminary analysis of how the requirements of this chapter apply to the proposed project.

(Added by Amended Ord. 06-061, Aug. 1, 2007, Eff date Oct. 1, 2007).

30.62A.120 Critical area services provided by the department.

The department may provide the following services to applicants for single family residential (SFR) dwellings, duplexes, and accessory structures, and commercial structures of 8,000 square feet or less upon submittal of the application and the payment of fees as required by chapter [30.86](#) SCC:

- (1) Identification of fish and wildlife habitat conservation areas;
- (2) Development of habitat management plans; and
- (3) Delineation and categorization of streams and wetlands. (Added by Amended Ord. 06-061, Aug. 1, 2007, Eff date Oct. 1, 2007).

30.62A.130 Submittal requirements.

(1) For any development activity or action requiring a project permit, the applicant shall submit a site development plan drawn to a standard engineering scale which includes:

- (a) Boundary lines and dimensions of the subject property;
 - (b) Boundary lines and dimensions of the site;
 - (c) The topography at contour intervals of five feet unless the underlying project permit requires a lesser interval;
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- (d) Location, size, and type of any existing structures, cleared areas and other existing improvements;
 - (e) Location, size, and type of all proposed development activities, activities subject to project permits, and clearing;
 - (f) Location and description of all wetlands and fish and wildlife habitat conservation areas located on the site ~~((or))~~ and within 300 feet ~~((or the width of the widest potential buffer of the site boundaries))~~ of the site;
 - (g) Location of all other critical areas regulated pursuant to chapters [30.62B](#), [30.62C](#), and [30.65](#) SCC on or within 300 feet of the site; ~~((and))~~
 - (h) Location of structure setbacks as required in chapter [30.23](#) SCC ~~((;))~~ ; and
 - (i) Location, size, and type of proposed stormwater facilities, including estimated areas of intrusion into buffers.
- (2) In addition to a site development plan the following additional information will be required where applicable:
- (a) Classification of all streams, wetlands, or lakes pursuant to SCC [30.62A.230](#) (Table 1). Classification is not required if the project permit applicant applies the maximum protection for the specific critical area as specified at SCC [30.62A.320](#) (Table 2a and 2b);
 - (b) Provisions for permanent protection as specified at SCC [30.62A.160](#);
 - (c) Provisions for temporary marking on the site of all critical area protection areas, or the limits of the proposed site disturbance outside of the critical area protection areas; ~~((and))~~
 - (d) A critical area study as required by SCC [30.62A.140](#) ~~((;))~~ ;
 - (e) Wetland delineation field worksheets in accordance with the approved federal wetland delineation manual and applicable regional supplement (see WAC 173-22-035); and
 - (f) Wetland categorization worksheets based on the Washington State Wetland Rating System for Western Washington: 2014 Update, (Hruby, T., October 2014, Department of Ecology, Publication #14-06-029, or latest edition).
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(Added by Amended Ord. 06-061, Aug. 1, 2007, Eff date Oct. 1, 2007; Amended by Amended Ord. 15-034, Sept. 2, 2015, Eff date Nov. 1, 2015).

30.62A.140 Critical area study content requirements.

For any development activity or action requiring a project permit occurring in wetlands, fish and wildlife habitat conservation areas, or within a buffer unless otherwise provided in Part 300, the ~~((director))~~ department may require, where applicable, a critical area study prepared by a qualified professional. The critical area study shall include a survey or map drawn to scale and a report describing the following information:

- (1) A wetland delineation map and report, including field worksheets in accordance with the approved federal wetland delineation manual and applicable regional supplement (see WAC [173-22-035](#)). This requirement may be waived if a wetland delineation has been performed within the previous five years that was approved by the department, and the department determines after site review that the wetland boundary is the same as the approved delineation;
- (2) Wetland categorization, including worksheets, documenting the proposed wetland categories, based on the Washington State Wetland Rating System for Western Washington: 2014 Update, (Hruby, T., October 2014, ~~((or latest edition,))~~) Department of Ecology Publication #14-06-029, or latest edition);
- (3) Wetland classes present as defined in the United States Fish and Wildlife Service's Classification of Wetlands and Deep Water Habitats in the U.S. (i.e. Cowardin ~~((et al., 1979)))~~ classification) (Federal Geographic Data Committee, 2013, or latest edition);
- (4) Stream location, stream name (if named), and stream type pursuant to the typing system contained in SCC [30.62A.230](#) (Table 1);
- (5) Lake location, lake name (if named), and lake type pursuant to the typing system contained in SCC [30.62A.230](#) (Table 1);
- (6) The ordinary high-water mark of any stream, lake, or marine water;
- (7) Buffer location pursuant to SCC 30.62A.320;

(8) A description and assessment of any areas that are functionally and effectively disconnected from buffers.

~~((7))~~ (9) A description and illustration of proposed activities within any critical area or ~~((buffers))~~ buffer;

~~((8))~~ (10) An assessment of the existing functions and values of the critical area(s) or buffers that will be affected by the proposed activity and the methods used to assess those functions and values;

~~((9))~~ (11) An assessment of how the activity meets the protection standards established in SCC [30.62A.310](#) and SCC [30.62A.450](#). For applications under SCC [30.62A.350](#), an assessment of how the proposal protects the functions and values specified in SCC [30.62A.220](#), and how the proposal provides protection equivalent to the standards established in SCC [30.62A.310](#) and SCC [30.62A.450](#);

~~((10))~~ (12) A mitigation plan for activities occurring in a critical area or buffer according to the requirements in SCC [30.62A.150](#);

~~((11))~~ (13) A habitat management plan in accordance with SCC [30.62A.460](#) for any activity occurring within the primary association area of a critical species;

~~((12))~~ (14) When shoreline or bank stabilization measures and/or flood protection measures are proposed, a geotechnical report investigating alternative structural and non-structural methods pursuant to SCC [30.62B.140](#); and

~~((13))~~ (15) Any other information necessary to determine compliance with this chapter or identified on a submittal checklist created by the department. (Added by Amended Ord. 06-061, Aug. 1, 2007, Eff date Oct. 1, 2007; Amended by Amended Ord. 15-034, Sept. 2, 2015, Eff date Nov. 1, 2015).

30.62A.150 Mitigation plan requirements.

Unless otherwise provided by this chapter, project permit applicants must provide a mitigation plan to address impacts to affected wetland, fish and wildlife habitat conservation area, or buffer functions and values as identified in the critical area study required pursuant to SCC [30.62A.140](#), provided that mitigation for the primary association area of critical species shall also comply with the requirements of Part 400.

(1) All mitigation plans shall:

(a) Describe the actions taken to avoid and minimize impacts to the critical area or buffer;

~~((a))~~ (b) Include a report that describes and evaluates the existing functions and values, the functions and values that will be impacted (both directly or indirectly, and permanently or temporarily), ~~((and))~~ the functions and values after mitigation, and the baseline conditions of the proposed location for compensatory mitigation if it is off-site;

~~((b))~~ (c) Specify how functions and values lost as a result of the activity will be replaced. This includes the amount of mitigation that will be provided, and the rationale for the selection of the proposed type and location of compensatory mitigation as applicable;

~~((c))~~ (d) Include performance standards;

~~((d))~~ (e) Specify when mitigation will occur relative to project construction and to the requirements of permits required by other jurisdictional entities;

~~((e))~~ (f) Include provisions for monitoring and maintenance of the mitigation area on a long-term basis to determine whether the mitigation was successful and that the mitigation measures in the approved plan will be sustainable after the monitoring period has expired;

~~((f))~~ (g) Include provisions for ~~((performance and maintenance))~~ security devices pursuant to ~~((chapter 30.84))~~ [SCC 30.84.015](#) and [SCC 30.84.140](#) ~~((SCC))~~ to ensure that work is completed in accordance with approved plans; and

~~((g))~~ (h) Include provisions on a form approved by the department for right of entry to the county for the purpose of inspection for the length of the monitoring and maintenance period if compensatory mitigation is located on the project site.

(2) Mitigation plans for wetlands shall be consistent with Wetland Mitigation in Washington State—Part 2: Developing Mitigation Plans—Version 1 (Ecology Publication #06-06-011b, or as revised), and Selecting Wetland Mitigation Sites Using a Watershed Approach (Ecology Publication #09-06-32, or as revised).

~~((2))~~ (3) For development activities that require approval by the hearing examiner or those that receive phased administrative, conditional, or preliminary approvals, the ~~((director))~~ department may allow mitigation plans to be submitted in two phases: a conceptual phase and

a detailed plan phase. (Added by Amended Ord. 06-061, Aug. 1, 2007, Eff date Oct. 1, 2007; Amended by Amended Ord. 15-034, Sept. 2, 2015, Eff date Nov. 1, 2015).

30.62A.160 Permanent identification, protection, and recording.

The following measures for permanent identification and protection of wetlands, fish and wildlife habitat conservation areas, and buffers are required for any development activity or action requiring a project permit, except those occurring in public and private road, trail, or utility easements and rights-of-way, or for those projects conducted for the primary purpose of habitat enhancement or restoration.

(1) Critical area site plans.

- (a) All wetlands, fish and wildlife habitat conservation areas, and buffers occurring on the site shall be designated on a critical area site plan as critical area protection areas.
- (b) A critical area site plan is any plan approved by the department that includes but is not limited to subdivisions, records of survey, official site plans, administrative site plans, binding site plans, or other form drawn to a standard engineering scale.
- (c) Critical area site plans shall include at a minimum:
 - (i) the boundaries of the site;
 - (ii) the boundaries of the property;
 - (iii) a legal description of the subject property;
 - (iv) accurate locations/boundaries of the critical area protection area(s), identified by critical area type;
 - (v) identification of existing legally established uses and structures;
 - (vi) provisions allowing habitat enhancement in wetland(s), fish and wildlife habitat conservation area(s), and buffers; ~~((and))~~
 - (vii) provisions for the permanent protection of the critical area(s) functions and values including, at minimum, the following:

- (A) restrictions on the construction of new structures;
- (B) restrictions on the removal of existing native vegetation; and
- (C) restrictions on other development activities that would adversely affect the functions and values of the wetland(s), fish and wildlife habitat conservation area(s), or buffers.

(2) *Recording.* Critical area site plans shall be recorded with the county auditor.

Documentation of recording shall be provided to the department prior to permit issuance.

(3) *Separate tracts and easements.* Wetlands, fish and wildlife habitat conservation areas, and buffers shall be located in easements or in separate tracts or other protected open space owned in common by all owners of the lots or parcels within any land division or land use permit or decision regulated pursuant to chapters [30.41A](#), [30.41B](#), [30.41C](#) and [30.41D](#) SCC or any other multi-family project approval with protected open space owned in common.

(4) *Legally established uses and structures.* Existing legally established uses or structures that fall within the boundaries of the critical area protection area shall be allowed to continue to be used and maintained without any additional restrictions. These uses and structures shall be clearly identified and described on the critical area site plan.

(5) ~~((When))~~ *Permanent Fencing.* Permanent fencing is required along critical area protection boundaries when using easements on lots for the protection of critical areas or buffers, or when adjacent activities could degrade the function or value of the critical area or buffer. Examples of such activities include, but are not limited to, maintained landscaping, agricultural uses, and commercial uses. ~~((a fence))~~ Permanent fencing shall be installed in a manner that minimizes impacts to critical area and buffer consistent with the ~~((fence))~~ following design and placement requirements ~~((of SCC 30.62A.320(1)(f)(ii))~~:

- (a) Fencing shall allow for the passage of wildlife, including fish runs, with a maximum height of three- and one-half feet and include a minimum gap of one- and one-half feet at the bottom of the fence.
- (b) Fencing placement shall clearly demarcate the buffer from the developed portion of the site and limit access of landscaping equipment, vehicles, or other human disturbances.

(6) *Previously approved critical area site plans.* For any development activity, action requiring a project permit or clearing occurring consistent with a previously approved critical area site plan shall be governed according to the terms and conditions of the approved site plan, provided that all wetlands, fish and wildlife habitat conservation areas, and buffers have been identified and specific permanent protection has been provided. "Consistent" means that there are no proposed modifications to the critical area protective measures established on the previously approved plan or direct impacts to the critical areas or buffers.

(7) Temporary marking. Critical area protection area boundaries and the clearing limits identified on the critical area site plan of an approved permit shall be marked in the field with temporary high-visibility fencing to prevent unauthorized intrusion. Temporary markings are subject to inspection by the department prior to the commencement of permitted activities. Temporary markings shall be maintained throughout construction and shall not be removed until required permanent fencing or markings are in place, or as directed by the department.

~~((7))~~ (8) Permanent marking. Critical area protection area boundaries shall be permanently marked with signs on the site prior to final inspection by the department ~~((using methods and materials acceptable to the county))~~, provided that this requirement does not apply to single family residential development occurring on existing lots. Permanent signs shall comply with the following requirements:

(a) Signs shall be made of an enamel-coated metal face attached to a metal post or another non-treated material of equal durability.

(b) Signs shall be posted at an interval of one sign every one hundred feet, or one sign per lot if the lot is less than one hundred feet wide.

(c) Signs shall be worded as follows or with alternative language approved by the department:

Critical Area Protection Area (CAPA)

This area is protected to provide wildlife habitat and maintain critical area(s) functions/values.

Please do not disturb this valuable resource.

Consult recorded plat or Snohomish County Planning and Development Services for CAPA restrictions

(d) Signs shall be maintained by the property owner in perpetuity.

(e) The department may modify the requirements for permanent signs in SCC 30.62A.160(8)(a)-(d) as necessary for the protection of sensitive features or wildlife.

(Added by Amended Ord. 06-061, Aug. 1, 2007, Eff date Oct. 1, 2007; Amended by Amended Ord. 15-034, Sept. 2, 2015, Eff date Nov. 1, 2015).

PART 200 Designation, Functions and Values, and Classification.

30.62A.210 Designation of wetlands and fish and wildlife habitat conservation areas.

The county has designated wetlands and fish and wildlife habitat conservation areas pursuant to RCW [36.70A.170](#) by defining them and providing criteria for their identification and establishing the functions and values to be protected. Project proponents are responsible for determining whether a wetland or fish and wildlife habitat conservation area exists and is regulated pursuant to this chapter. The department will verify on a case-by-case basis the presence of wetlands and fish and wildlife habitat conservation areas identified by project proponents. Specific criteria for the designation of wetlands and fish and wildlife habitat conservation areas are contained in this chapter and chapter 30.91 SCC. While the county maintains some maps of wetlands and fish and wildlife habitat conservation areas, they are for informational purposes only and may not accurately represent all such areas. (Added by Amended Ord. 06-061, Aug. 1, 2007, Eff date Oct. 1, 2007).

30.62A.220 Functions and values of wetlands, fish and wildlife habitat conservation areas, and buffers.

The functions and values listed in this section are included primarily based on their ecological relationship and value to the critical areas subject to this chapter, and include, but are not necessarily limited to, the following elements:

- (1) *Streams*. Fish and wildlife habitat; transport of water, sediment and organic material; floodwater storage and attenuation;

- (2) *Wetlands*. Fish and wildlife habitat, pollution assimilation, sediment retention, shoreline stabilization, floodwater storage, attenuation and conveyance, wave energy attenuation, stream base-flow maintenance, and groundwater discharge/recharge;
- (3) *Lakes*. Fish and wildlife habitat, sediment retention, pollution assimilation, and floodwater attenuation, storage and conveyance;
- (4) *Marine waters*. Fish and wildlife habitat; wind, wave and current attenuation; sediment supply; longshore transport of sediment; and pollution assimilation;
- (5) *Primary association areas of critical species*. Fish and wildlife habitat;
- (6) *State natural area preserves, natural resource conservation areas, and state wildlife areas*. Fish and wildlife habitat and recreation; and
- (7) *Buffers*. Habitat for water associated and riparian associated wildlife, wildlife movement corridors, noise and visual screening, large woody debris and other natural organic matter recruitment, floodwater attenuation and storage, temperature maintenance, pollution assimilation, streambank stabilization, shade, and supply of sediments and nutrients. (Added by Amended Ord. 06-061, Aug. 1, 2007, Eff date Oct. 1, 2007; Amended by Ord. 17-039, July 12, 2017, Eff date Aug. 3, 2017).

30.62A.230 Classification of streams, lakes, wetlands, and marine waters.

- (1) Classification of streams, lakes, and marine waters shall be established in accordance with the water typing rules contained in WAC [222-16-030](#), summarized in Table 1. In the event of a conflict between WAC [222-16-030](#) and the contents of Table 1, the provisions in WAC [222-16-030](#) will govern.
- (2) Classification and scoring of wetlands shall occur pursuant to the Washington State Wetland Rating System for Western Washington: 2014 Update, (Hruby, T., October 2014, (~~or latest edition~~)) Department of Ecology Publication #14-06-029, or latest edition) summarized in Table 1. In the event of a conflict between the DOE publication and the contents of Table 1, the provisions in the DOE publication will govern.

Table 1 Classification of Streams, Lakes, and Wetlands

Classification	Classification Criteria Summary
Streams and Lakes	
Type S	Segments of all waters within their bankfull width, as inventoried as "shorelines of the state" under chapter 90.58 RCW and the rules promulgated pursuant to chapter 90.58 RCW.
Type F	<p>Segments of natural waters other than Type S waters, which are within the bankfull widths of defined channels or within lakes, <u>or impoundments</u> having a surface area of 0.5 acres or greater at seasonal low water and which in any case contain fish habitat or are described by one of the following four categories:</p> <p>(a) ((Are)) <u>Waters, which are</u> diverted for domestic use by more than 10 residential or camping units or by a public accommodation facility licensed to serve more than 10 persons, where such diversion is determined by the Washington State Department of Natural Resources to be a valid appropriation of water and the only practical water source for such users. Such waters shall be considered to be Type F water upstream from the point of such diversion for 1,500 feet or until the drainage area is reduced by 50 percent, whichever is less;</p> <p>(b) ((Are)) <u>Waters, which are</u> diverted for use by federal, state, tribal or private fish hatcheries. Such waters shall be considered Type F water upstream from the point of diversion for 1,500 feet, including tributaries if highly significant for protection of downstream water quality;</p> <p>(c) Waters which are within federal, state, local or private campgrounds with more than 10 camping units: Provided that the water shall not be considered to enter a campground until it reaches the boundary of the park lands available for public use and comes within 100 feet of a camping unit,</p>

Classification	Classification Criteria Summary
	<p>trail or other park improvement;</p> <p>(d) Riverine ponds, wall-based channels, and other channel features that are used by fish for off-channel habitat.</p>
Type Np	<p>Segments of natural waters within the bankfull width of defined channels that are perennial nonfish habitat streams. Perennial streams are <u>flowing</u> waters that do not go dry any time of the year of normal rainfall. However, for the purpose of water typing, Type Np waters include the intermittent dry portions of the perennial channel below the uppermost point of perennial flow. ((Np waters begin downstream of the point along the channel where the contributing basin area is at least 52 acres in size.))</p>
Type Ns	<p>Segments of natural waters within the bankfull width of the defined channels that are not Type S, F, or Np waters. These are seasonal, nonfish habitat streams in which surface flow is not present for at least some portion of a year of normal rainfall and are not located downstream from any stream reach that is a Type Np water. Ns waters must be physically connected by an above-ground channel system to Type S, F, or Np waters.</p>
Wetlands	
Category I	<p>Wetlands listed by the Washington Natural Heritage Program as having high conservation value</p>
	<p><u>Bogs, Mature Forest, and Old Growth Forest Wetlands</u></p>
	<p>Estuarine wetlands (greater than or equal to one acre) & Coastal Lagoons (greater than or equal to 1/10 acre)</p>

Classification	Classification Criteria Summary
	High Level Habitat Function (habitat function score is 8-9)
	Moderate Level Habitat Function (habitat function score is ((5)) <u>6-7</u>)
	Total score 23 or above but not meeting above criteria
Category II	Estuarine wetlands (less than one acre)
	High level of function for habitat (habitat function score is 8-9)
	Moderate level of function for habitat (habitat function score is ((5)) <u>6-7</u>)
	High level of function for water quality improvement and low for habitat (water quality function score is 8-9 and habitat function score is ((less than)) <u>5 or less</u>)
	Total score 20-22 but not meeting above criteria
Category III	Moderate <u>to High</u> Level Habitat Function (habitat function score is ((5-7)) <u>6-9</u>)
	Total score of 16-19 but not meeting above criteria
Category IV	Total score for all functions less than 16

(Added by Amended Ord. 06-061, Aug. 1, 2007, Eff date Oct. 1, 2007; Amended by Amended Ord. 15-034, Sept. 2, 2015, Eff date Nov. 1, 2015).

PART 300 Standards and Requirements.

30.62A.310 General standards and requirements.

- (1) This Part establishes specific standards and requirements for protection of wetlands, fish and wildlife habitat conservation areas, and their buffers, and under what circumstances mitigation may be used to address the impacts of development.
- (2) Any development activity, action requiring a project permit or clearing occurring within wetlands, fish and wildlife habitat conservation areas, and buffers is prohibited unless conducted in compliance with this chapter.
- (3) Except as otherwise provided in Part 500, all development activities, actions requiring a project permit or clearing shall be designed and conducted to achieve no net loss of critical area functions and values and comply with the following general standards and requirements:
 - (a) The project proponent shall make all reasonable efforts to avoid and minimize impacts to wetlands, fish and wildlife habitat conservation areas, and buffers in the following sequential order of preference:
 - (i) avoiding impacts altogether by not taking a certain action or parts of an action; ~~((or~~
~~;))~~
 - (ii) when avoidance is not possible, minimizing impacts by limiting the degree or magnitude of the action and its implementation, using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts; and
 - (iii) mitigating for the affected functions and values of the critical area~~((;))~~.
 - (b) When mitigation is required it shall be conducted in accordance with the following requirements, unless otherwise provided in this chapter:
 - (i) mitigation location. Unless otherwise provided in this chapter, mitigation for impacts to the functions and values of wetlands, fish and wildlife habitat conservation areas, and buffers shall be in-kind and on-site. Off-site mitigation may be approved ~~((only))~~ in those situations where appropriate and adequate on-site mitigation cannot

replace the function(s) of the wetlands, fish and wildlife habitat conservation area(s) or buffers at an equivalent level to the off-site location. Off-site mitigation must occur in the same sub-drainage basin for streams, lakes, and wetlands, or drift cell for marine waters(;) unless the applicant's qualified professional can demonstrate that a mitigation site in a different sub-drainage basin is ecologically preferable.

(ii) mitigation timing. Mitigation shall be timed to reduce impacts to existing fisheries, wildlife, and flora and completed prior to granting of final building occupancy, or the completion or final approval of any development activity or action requiring a project permit for which mitigation measures have been required, except as set forth in chapter [30.84](#) SCC; ~~((and))~~

(iii) function replacement. Unless otherwise provided in this chapter, functions and values shall be replaced at a one to one ratio;

(iv) Plantings shall be native species appropriate to the ecoregion; and

(v) Monitoring shall be required for a period of at least five years. If the mitigation goals are not attained within the initially established monitoring period, the applicant remains responsible for managing the mitigation project until the goals of the mitigation plan are achieved;.

(c) A project proponent may demonstrate compliance with subsection [\(3\)](#) of this section by:

(i) adhering to the standards and requirements in SCC [30.62A.320\(1\)](#), [.330\(1\)](#), [.340\(1\)](#) and [\(2\)](#) and [.450](#) as applicable; or by

(ii) adhering to the performance standards in SCC [30.62A.320\(2\)](#) and [\(3\)](#), [.330\(2\)](#), [.340\(3\)](#) and [\(4\)](#) or [.350](#) and mitigating for impacted functions and values as follows:

(A) any development activity, action requiring a project permit or clearing allowed pursuant to SCC [30.62A.320\(2\)](#), [.330\(2\)](#), [.340\(3\)](#) or [.350](#) shall also comply with general mitigation requirements in SCC subsection [\(3\)](#) of this section. Activities not listed or deviations from the standards contained in Part 300 may only be conducted pursuant to SCC [30.62A.350](#) or Part 500; and

(B) any development activity or action requiring a project permit listed in SCC [30.62A.320\(2\)](#), .330(2), .340(3) or .350 shall also comply with the critical area study requirements of SCC [30.62A.140](#), and the mitigation plan requirements of SCC [30.62A.150](#)~~((; and))~~ .

(d) Permanent identification and protection of wetlands, fish and wildlife habitat conservation areas, and their buffers shall be provided as required by SCC [30.62A.160](#).

(Added by Amended Ord. 06-061, Aug. 1, 2007, Eff date Oct. 1, 2007; Amended by Amended Ord. 15-034, Sept. 2, 2015, Eff date Nov. 1, 2015).

30.62A.320 Standards and requirements for buffers and impervious surfaces.

Buffers shall be required adjacent to streams, lakes, wetlands, and marine waters to protect the functions and values of these aquatic critical areas.

(1) *Buffer standards and requirements – no mitigation required.* All development activities, actions requiring project permits, and clearing that comply with the buffer requirements of ~~((subsections (1)(a) through (g))~~ subsection (1) of this section satisfy the avoidance criteria of SCC [30.62A.310\(3\)](#) and are not required to provide mitigation.

(a) Buffer widths shall be as set forth in Table 2a or 2b below.

Table 2a Stream, Lake, and Marine Buffer Width Standards (Feet)

<i>Streams and Lakes*</i>	
Type S	150
Type F with anadromous or resident salmonids	150
Type F without anadromous or resident salmonids	100
Type Np	50
Type Ns	50

<i>Marine Waters</i>		
Type 1	All marine waters	150

* The buffer when located within the Special Flood Hazard Area shall be the greater of the width listed in Table 2a, the channel migration zone where mapped plus 50 feet, or the mapped floodway.

Table 2b Wetland Buffer Width Standards (feet)

Wetlands						
Wetland Category	Description	Buffer Width Requirements (feet)				
		Standard Buffer Width **	High Intensity Land Use ¹ (((30.62A.340(4)))) See SCC 30.62A.320(4) for optional mitigation measures 1 and 2			Low Intensity Land Use ²
			Buffer w/out optional mitigation ((measure 1 or 2)) <u>measures</u>	Buffer w/ <u>optional</u> mitigation measure 1 (((*may use measure 1 OR 2))) <u>or 2</u>	Buffer w/ <u>optional</u> mitigation measures 1 AND 2	
Wetlands containing salmonids (minimum)		150				
Category 1	Wetlands listed by the Washington Natural Heritage Program as having High Conservation Value	190	250	220*	190	125
	<u>Bogs, Mature Forest, and Old Growth Forest Wetlands</u>	190	250	220*	190	125
	Estuarine	150	200	175*	150	100

Wetlands						
Wetland Category	Description	Buffer Width Requirements (feet)				Low Intensity Land Use ²
		Standard Buffer Width **	High Intensity Land Use ¹ (((30.62A.340(4)))) See SCC 30.62A.320(4) for optional mitigation measures 1 and 2			
			Buffer w/out optional mitigation ((measure 1 or 2)) <u>measures</u>	Buffer w/ optional mitigation measure 1 ((*may use measure 1 OR 2)) or <u>2</u>	Buffer w/ optional mitigation measures 1 AND 2	
	wetlands (greater than or equal to one acre) & Coastal Lagoons (greater than or equal to 1/10 acre)					
	High level habitat function (habitat function score is 8-9)	225	300	262*	225	150
	Moderate level habitat function (habitat function score is ((5)) <u>6-7</u>)	110	150	130*	110	75
	Total score 23 or above but not meeting above criteria	75	100	75		50
	Category II	Estuarine wetlands (less than 1 acre)	110	150	130*	110
	High level of	225	300	262*	225	150

Wetlands						
Wetland Category	Description	Buffer Width Requirements (feet)				Low Intensity Land Use ²
		Standard Buffer Width **	High Intensity Land Use ¹ (((30.62A.340(4)))) See SCC 30.62A.320(4) for optional mitigation measures 1 and 2			
			Buffer w/out optional mitigation ((measure 1 or 2)) <u>measures</u>	Buffer w/ optional mitigation measure 1 (((*may use measure 1 OR 2))) or <u>2</u>	Buffer w/ optional mitigation measures 1 AND 2	
	function for habitat (habitat function score is 8-9)					
	Moderate to high level of function for habitat (habitat function score is ((5)) <u>6-7</u>)	110	150	130*	110	75
	High level of function for water quality improvement and low for habitat (water quality function score is 8-9 and habitat function score is ((less than)) <u>5 or less</u>)	75	100	75		50
	Total score 20-22 but not meeting above criteria	75	100	75		50

Wetlands						
Wetland Category	Description	Buffer Width Requirements (feet)				
		Standard Buffer Width **	High Intensity Land Use ¹ (((30.62A.340(4)))) See SCC 30.62A.320(4) for optional mitigation measures 1 and 2			Low Intensity Land Use ²
			Buffer w/out optional mitigation ((measure 1 or 2)) <u>measures</u>	Buffer w/ optional mitigation measure 1 ((*may use measure 1 OR 2)) or <u>2</u>	Buffer w/ optional mitigation measures 1 AND 2	
Category III	<u>High or Moderate level habitat function (habitat function score is ((5-7)) 6 - 9)</u>	110	150	110		75
	Total score of 16-19 but not meeting above criteria	60	80	60		40
Category IV	Low level function score (less than 16)	40	50	40		25

1 High intensity land uses include:

- commercial or industrial uses
- nonresidential use in zones where the primary intent is residential use as per SCC [30.21.025](#)
- Residential use (4 or more units/acre)
- High-intensity recreation (golf courses, ball fields, ORV parks, etc.)

2 Low intensity land uses include:

- Forestry (cutting of trees only)
- Low-intensity open space (hiking, bird-watching, preservation of natural resources, etc.)
- Unpaved trails
- Utility corridor without a maintenance road and little or no vegetation management.

****** Standard buffers represent moderate level land use intensity and include uses that are not defined as high or low intensity.

(b) Buffer widths shall be measured as follows:

(i) the buffer for streams, lakes, and marine waters shall be measured from the ordinary high-water mark extending horizontally in a landward direction ~~((and for))~~ if there is not a channel migration zone. If a channel migration zone is determined pursuant to SCC 30.62B.330, the buffer will be measured horizontally from the channel migration zone.

~~(ii) the buffer for~~ wetlands ~~((, the buffer))~~ shall be measured from the edge of the wetland extending horizontally in a landward direction ~~((; and))~~ .

~~((iii))~~ ~~((provided however,))~~ (iii) where the landward edge of the standard buffer shown in Table 2a or 2b extends on to a slope of 33 percent or greater, the buffer shall extend to a point 25 feet beyond the top of the slope.

(iv) If two or more stream, wetland, lake, or marine water buffers overlap, the wider buffer shall be applied.

(c) Buffers may exclude areas that are functionally and effectively disconnected from the critical area by an existing public or private road, or other legally established development. Areas of exclusion shall be limited to those buffer areas where buffer functions are blocked by the road or other legally established development.

~~((e))~~ (d) New effective impervious surface restrictions:

(i) no new effective impervious surfaces are allowed within the buffer of streams, wetlands, lakes, or marine waters; and

(ii) total new effective impervious surfaces shall be limited to 10 percent within 300 feet of ~~((;))~~ any streams or lakes containing salmonids; wetlands containing salmonids; or marine waters containing salmonids, except when:

~~((A))~~ any streams or lakes containing salmonids;

~~((B))~~ wetlands containing salmonids; or

~~((C))~~ marine waters containing salmonids.))

(A) the new effective impervious surfaces is not within the contributing drainage sub-basin; or

(B) the stormwater flow from the new effective impervious surfaces is functionally and effectively disconnected from the stream, lake, wetland, or marine water containing salmonids.

~~((d))~~ (e) All development activities, actions requiring project permits or clearing shall be designed to avoid the loss of or damage to trees in buffers due to blow down or other causes.

~~((e))~~ (f) All development activities, actions requiring project permits or clearing shall be sited and designed to prevent the need for shoreline or bank stabilization and structural flood hazard protection measures for the life of the development except as allowed pursuant to SCC [30.62A.330\(2\)\(b\)](#).

~~((f))~~ The following measures for reducing buffer width and area may be used without a critical area study or mitigation plan:

~~(i) separate tract reductions. Up to a 15 percent reduction of the standard buffer is allowed when the buffer and associated aquatic critical area are located in a separate tract as specified in SCC [30.62A.160\(3\)](#);~~

~~(ii) fencing reductions. Up to a 15 percent reduction of the standard buffer is allowed when a fence is installed along the perimeter of the buffer. The fence shall be designed and constructed as set forth below:~~

~~(A) the fence shall be designed and constructed to be a permanent structure;~~

~~(B) the fence shall be designed and constructed to clearly demarcate the buffer from the developed portion of the site and to limit access of landscaping equipment, vehicles, or other human disturbances;~~

~~(C) the fence shall allow for the passage of wildlife, with a minimum gap of one and one half feet at the bottom of the fence, and a maximum height of three and one half feet at the top; and~~

~~(D) the enhancement area complies with the enhancement ratios of Table 3; and~~

~~(iii) for permanent fencing combined with separate tracts, the maximum reduction shall be limited to 25 percent.))~~

(g) ~~((The))~~ One of the following buffer reduction methods ~~((are only))~~ is allowed in conjunction with a critical area study, pursuant to SCC [30.62A.140](#), demonstrating that the methods will provide protection equivalent to the standard requirements contained in Tables 2a and 2b~~((;))~~ . The buffer reduction methods may not be combined.

(i) ~~((the))~~ Buffer averaging. The width of a buffer may be averaged, by reducing the width of a portion of the buffer and increasing the width of another portion of the same buffer, if all of the following requirements are met:

(A) averaging will not diminish the functions and values of the wetland(s), fish and wildlife habitat conservation area(s), or buffer(s);

(B) the total area of the buffer on the subject property may not be less than the area that would have been required if averaging had not occurred;

(C) the total area of buffer averaging shall be placed between the developed area and the wetland, lake, stream, or marine water;

(D) no part of the width of the buffer may be less than 50 percent of the standard required width or 25 feet, whichever is greater, for streams, lakes, and marine waters;

(E) the wetland buffer at its narrowest point shall not be less than the greater of either:

(i) 75 percent of the standard required buffer width, or

(ii) 75 feet for Category I and II wetlands, 50 feet for Category III wetlands, and 25 feet for Category IV wetlands;

~~((E))~~ (F) averaging of a buffer shall not be allowed where the reduction extends into associated sloping areas of 33 percent or greater; and

~~((F))~~ (G) buffers on isolated ~~((-))~~ wetlands or lakes located in close proximity to other aquatic critical areas shall be connected by corridors of native vegetation

where possible using the buffer averaging provisions of this section and the following criteria:

- (1) the width of the corridor connection between the aquatic critical areas shall be no less than the combined average of the standard buffers for each of the critical areas, provided that if there is not sufficient buffer area available when using averaging to establish a connection, a connection is not required;
- (2) no more than 25 percent of the buffer of the individual critical areas shall be used to make a corridor connection;
- (3) the corridor connection shall be established where feasible using the highest quality habitat existing between the critical areas;

(ii) ~~((enhancement))~~ Enhancement reductions. Up to a 25 percent reduction of the ~~((standard))~~ required buffer width and area is allowed provided the project proponent demonstrates the enhancement complies with all of the following criteria:

- (A) a comparative analysis of buffer functions and values prior to and after enhancement, demonstrates that there is no net loss of buffer functions and values;
- (B) a full enhancement reduction shall only be allowed where it can be demonstrated that the existing buffer functions and values are non-existent or significantly degraded. Buffers with partial function may receive a partial or prorated reduction; and
- (C) the total buffer area after reduction is not less than 75 percent of the total buffer area before reduction;

~~((iii) reductions may be combined based on the following criteria:))~~

- ~~(A) for enhancement combined with permanent fencing, the maximum reduction in width and area shall be limited to 30 percent; and~~
- ~~(B) for enhancement combined with separate tracts, the maximum reduction in both width and area shall be limited to 30 percent.~~

~~(h) When averaging is used in combination with any or all of the reduction methods contained in this section, the buffer shall not be reduced to less than half of the standard buffer widths contained in SCC subsection [\(1\)\(a\)](#) of this section, Tables 2a or 2b.)~~

(2) *Buffer standards and requirements - mitigation required.* All actions, structures, or facilities listed in this section are allowed in buffers only when they are determined to be unavoidable pursuant to SCC [30.62A.310\(3\)](#) and are conducted according to the standards and requirements identified in this section. When a permit is required, an applicant must also provide a critical area study meeting the requirements of SCC [30.62A.140](#) and a mitigation plan meeting the requirements of SCC [30.62A.150](#).

(a) New utilities and transportation structures are allowed within buffers when:

(i) no other feasible alternative exists or the alternative would result in unreasonable or disproportionate costs; ~~((and))~~

(ii) location, design and construction minimizes impacts to the buffers pursuant to SCC [30.62A.310\(-\)](#); and

(iii) for underground utility or transportation corridors, the entrance and exit portals shall be located completely outside of the buffer, and the corridor shall not alter the percolation of surface water through the soil column or the groundwater connection to adjacent critical areas as demonstrated by a professional hydrologist study.

(b) Stormwater ~~((detention/retention))~~ facilities are allowed pursuant to the requirements of SCC [30.63A.570](#) and the Snohomish County Drainage Manual.

(c) Access through buffers is allowed provided it is designed and constructed to be the minimum necessary to accommodate the use or activity.

(d) Construction of pedestrian walkways or trails in buffers is allowed when constructed with natural permeable materials and does not exceed 6 feet in width.

(e) Trimming of vegetation for purposes of providing a view corridor in a buffer is allowed provided that:

(i) trimming shall not include felling, topping, or removal of trees and be limited to hand pruning of branches and vegetation;

(ii) trimming and limbing of vegetation for the creation and maintenance of view corridors shall occur in accordance with the pruning standards of the International Society of Arboriculture (See articles published by the International Society of Arboriculture, Consumer Information Program, updated July, 2005);

(iii) trimming shall be limited to view corridors of 30 feet wide or 50 percent of the lot width, whichever is less;

(iv) no more than 30 percent of the live crown shall be removed; and

(v) the activity will not increase the risk of landslide or erosion.

(f) New shoreline and bank stabilization measures or flood protection are allowed pursuant to SCC [30.62A.330\(2\)](#).

(g) Reconstruction or replacement of buildings may be allowed provided the new building does not encroach further into a critical area or its buffer than did the original building being reconstructed or replaced.

(3) *Buffer standards and requirements – mitigation ratios.*

(a) The mitigation ratios in Table 3 shall apply to buffer impacts ~~((and mitigation measures))~~ that exceed those allowed in ~~((subsections [\(1\)\(f\)\(i\)](#), [\(1\)\(f\)\(ii\)](#), [\(1\)\(g\)\(i\)](#), and [\(1\)\(g\)\(ii\)](#) of this section.))~~ SCC 30.62A.320(1).

(b) Except as provided in subsections [\(3\)\(c\)](#) and [\(d\)](#) of this section, to mitigate the loss of buffer functions and values, the ratios in Table 3 shall be required. The ratios are based upon the existing type of vegetative cover and are expressed in terms of the units of mitigation area needed to replace the lost functions and values of the impacted buffer area.

(c) Enhancement shall occur in accordance with enhancement criteria contained in ~~((subsections [\(1\)\(g\)\(ii\)\(A\)](#), [\(B\)](#) and [\(C\)](#) of this section))~~ SCC 30.62A.320(1)(g)(ii).

(d) For temporary impacts, the ratios shall be ~~((to be))~~ 1:1. Temporary impacts are those that can be restored to pre-disturbance conditions in one growing season.

(e) The following areas cannot be counted as part of the buffer mitigation area required by the ratios in Table 3:

(i) Easements for utility corridors, stormwater facilities, rights-of-way, and streams conveyed underground;

(ii) Driveways;

(iii) Roads; or

(iv) Any paved or graveled areas intended to convey vehicle or foot traffic.

Table 3 Buffer Mitigation Ratios

Existing Riparian habitat vegetation type	Creation	Enhancement ¹
Mature forest	6:1	12:1
Non-mature forest	3:1	6:1
Shrub	2:1	4:1
Non-woody vegetation	1.5:1	3:1
No vegetated cover	1:1	2:1

¹ enhancement of the existing buffer is allowed in lieu of creation for up to one acre of buffer loss

(4) Wetland buffer standards and requirements – high intensity land use optional mitigation measures. To reduce wetland buffer widths from the width required for high intensity land uses in Table 2b, optional mitigation measures and process requirements may be applied to reduce wetland buffer widths as shown in SCC 30.62A.320(1)(a) Table 2b.

(a) Optional mitigation measure 1. To qualify for the reduced buffer widths listed in SCC 30.62A.320(1)(a) Table 2b, all applicable mitigation measures from Table 4 shall be used to minimize impacts to wetlands from high intensity land uses;

Table 4 Mitigation Measures for High Intensity Land Uses

<u>Types of disturbance</u>	<u>Activities and uses that cause disturbances</u>	<u>Measures to minimize impacts</u>
<u>Lights</u>	<ul style="list-style-type: none"> • <u>Parking lots</u> • <u>Warehouses</u> • <u>Manufacturing</u> • <u>Residential</u> • <u>Commercial/industrial</u> • <u>Recreation (e.g., athletic fields)</u> • <u>Agricultural building</u> 	<ul style="list-style-type: none"> • <u>Direct lights away from wetland</u> • <u>Only use lighting where necessary for public safety and keep lights off when not needed</u> • <u>Use motion-activated lights</u> • <u>Use full cut-off filters to cover light bulbs and direct light only where needed</u> • <u>Limit use of blue-white colored lights in favor of red-amber hues</u> • <u>Dim light to the lowest acceptable intensity</u>
<u>Noise</u>	<ul style="list-style-type: none"> • <u>Manufacturing</u> • <u>Residential</u> • <u>Industrial</u> • <u>Recreation (e.g., athletic fields, bleachers, etc.)</u> • <u>Agriculture</u> 	<ul style="list-style-type: none"> • <u>Locate activity that generates noise away from the wetland</u> • <u>Construct a fence to reduce noise impacts on adjacent wetland and buffer</u> • <u>Plant a strip of dense shrub vegetation adjacent to wetland buffer</u>
<u>Toxic runoff *</u>	<ul style="list-style-type: none"> • <u>Parking lots</u> • <u>Roads</u> • <u>Manufacturing</u> • <u>Residential areas</u> • <u>Landscaping</u> • <u>Application of pesticides</u> • <u>Commercial/industrial</u> • <u>Agriculture</u> 	<ul style="list-style-type: none"> • <u>Route all new untreated runoff away from wetland while ensuring that wetland is not dewatered</u> • <u>Establish covenants governing use of pesticides within 150 feet of wetland</u> • <u>Apply integrated pest management</u>
<u>Stormwater runoff</u>	<ul style="list-style-type: none"> • <u>Parking lots</u> • <u>Roads</u> • <u>Manufacturing</u> • <u>Residential areas</u> • <u>Commercial/industrial</u> • <u>Landscaping/ lawns</u> • <u>Other impermeable surfaces, compacted soil, etc.</u> 	<ul style="list-style-type: none"> • <u>Retrofit stormwater detention and treatment for roads and existing adjacent development</u> • <u>Prevent channelized flow from lawns that directly enters buffer</u> • <u>Infiltrate or treat, detain, and disperse new runoff from impervious surfaces and lawns</u>
<u>Pets and human disturbance</u>	<ul style="list-style-type: none"> • <u>Residential areas</u> • <u>Recreation</u> 	<ul style="list-style-type: none"> • <u>Use privacy fencing</u> • <u>Plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion ((:))</u>

<u>Types of disturbance</u>	<u>Activities and uses that cause disturbances</u>	<u>Measures to minimize impacts</u>
		<ul style="list-style-type: none"> • <u>Place wetland and its buffer in a separate tract</u> • <u>Place signs around the buffer every 50-200 feet, and for subdivisions place signs at the back of each residential lot</u> • <u>When platting new subdivisions, locate greenbelts, stormwater facilities, and other lower-intensity uses adjacent to buffers</u>
<u>Dust</u>	<ul style="list-style-type: none"> • <u>Tilled fields</u> • <u>Roads</u> 	<ul style="list-style-type: none"> • <u>Use best management practices to control dust</u>

* These measures may not be adequate for minimizing toxic runoff if threatened or endangered species are present at the site.

(b) *Optional mitigation measure 2.* For Category I or II wetlands that score moderate or high for habitat (6 points or more for the habitat functions), to qualify for the reduced buffer widths listed in SCC 30.62A.320(1)(a) Table 2b, a habitat corridor shall be preserved that meets the following criteria:

(i) Except as allowed in number (ii) below, the habitat corridor shall connect the Category I or II wetland to any other wetland, fish and wildlife habitat conservation area, or buffer which is:

(A) on the same property or within the same development, including all phases proposed;

(B) on adjacent properties and already protected as Native Growth Protection Areas or Critical Area Protection Areas or other permanently protected open space suitable for wildlife habitat use and which either extends to the property boundary or connected by easement; or

(C) on county, state, or federal land used for forestry, conservation, or passive recreation parks.

(ii) The habitat corridor may connect to a stormwater detention facility, either on-site or on an adjacent site, if it is designed to replicate a natural pond or wetland.

(iii) The habitat corridor shall meet the following minimum physical characteristics:

(A) The corridor shall consist of a relatively undisturbed, vegetated corridor.

(B) The corridor be a minimum width of 100 feet.

(iv) The director may approve alternative configurations which meet the intent of no net loss of habitat functions and values pursuant to SCC [30.62A.350](#).

(v) The following activities are allowed within the habitat corridor:

(A) An unpaved trail - narrow single file walking path no bicycles or motorized vehicles allowed – with minimal trail maintenance;

(B) Hazardous tree management - creation of snags and down logs is favored over tree removal whenever possible;

(C) Hand removal of invasive plant species;

(D) Restorative/enhancement plantings with native species to increase species diversity or replace plants lost to disease or damage; and

(E) Planting with native species along outer edge of corridor to increase plant density and discourage disturbance or intrusion.

(c) Process requirements in Part 100 shall be supplemented with the necessary information to document the mitigation locations and protection requirements, provide an assessment of functions and values and evaluation of the level of protection achieved by the mitigation measures, and establish provisions for permanent protection.

(Added by Amended Ord. 06-061, Aug. 1, 2007, Eff date Oct. 1, 2007; Amended by Amended Ord. 10-026, June 9, 2010, Eff date Sept. 30, 2010; Amended by Amended Ord. 15-034, Sept. 2, 2015, Eff date Nov. 1, 2015).

30.62A.330 Standards and requirements for activities conducted within streams, lakes, and marine waters.

This section provides standards and requirements for activities conducted within streams, lakes, and marine waters. Protection of streams, lakes, and marine waters is inextricably linked to protection of the adjacent buffers. Standards and requirements for buffers adjacent to streams, lakes, and marine waters are found in SCC [30.62A.320](#).

(1) *Standards and requirements for streams, lakes, and marine waters - no mitigation required.* Any development activity, action requiring project permit, or clearing that does not encroach into streams, lakes, or marine waters and provides buffers consistent with the requirements of SCC [30.62A.320\(1\)](#) satisfies the avoidance criteria of SCC [30.62A.310\(3\)](#) and does not require mitigation.

(2) *Standards and requirements for streams, lakes, and marine waters - mitigation required.* All actions, structures, or facilities listed in this ((section)) Subsection are allowed only when they are determined to be unavoidable pursuant to SCC [30.62A.310\(3\)](#), and are conducted according to the standards and requirements identified in this ((section)) Subsection. When a permit is required, an applicant must also provide a critical area study meeting the requirements of SCC [30.62A.140](#) and a mitigation plan meeting the requirements of SCC [30.62A.150](#).

(a) All development activities, actions requiring project permits and clearing shall meet the following requirements:

- (i) the project shall be sited and designed to prevent the need for shoreline or bank stabilization and structural flood hazard protection measures for the life of the development;
- (ii) the project shall be sited and designed to avoid the need for new or maintenance dredging; and
- (iii) the project shall not obstruct the source and movement of sediment from bluffs along marine waters except as necessary pursuant to subsection [\(2\)\(b\)](#) of this section.

(b) *Shoreline and streambank stabilization and flood protection measures.* Shoreline and streambank stabilization and flood protection measures are only allowed to protect an existing primary structure; new or existing utilities, roads, and bridges; agricultural land; or

as part of a project where the sole purpose is to protect or restore wetlands, fish and wildlife habitat conservation areas or buffers. Activities allowed under subsection [\(2\)\(b\)](#) of this section shall meet the following conditions:

- (i) the applicant shall submit a geotechnical report as required pursuant to SCC [30.62B.140](#) which establishes that the stabilization or flood protection is necessary;
 - (ii) non-structural measures shall be used unless a geotechnical report indicates that the only alternative is use of structural stabilization measures;
 - (iii) the activity shall avoid interrupting hyporheic zone continuity; and
 - (iv) the activity should be designed and constructed based on the guidance contained in the Marine Shoreline Design Guidelines (Washington State Department of Fish and Wildlife, 2014) and the Soft Shoreline Stabilization Shoreline Master Program Planning and Implementation Guidance (Washington State Department of Ecology, March 2014, Publication No. 14-06-009) as appropriate for the type of critical area impacted.
- (c) *Utility construction.* For utilities permitted under Title [30](#) SCC and Title [13](#) SCC, the following additional requirements shall apply:
- (i) new utility crossings shall be bored beneath types S and F streams, and channel migration zones where feasible, and comply with SCC 30.62A.320(2)(a)(iii);
 - (ii) underground utilities shall avoid interrupting hyporheic zone continuity;
 - (iii) utilities shall be contained within the developed footprint of existing roads or utility crossings, where feasible;
 - (iv) utilities placement shall not increase or decrease the natural rate of shore migration, channel migration or longshore sediment transport within a drift cell;
 - (v) utilities placement shall avoid interrupting downstream movement of wood and sediment; and
 - (vi) new overhead electrical facilities are allowed when no other feasible alternative exists or the alternative would result in unreasonable or disproportionate costs, and the location, design and construction minimizes impacts to streams, lakes and marine waters pursuant to SCC [30.62A.310](#).
-

- (d) Road crossings are subject to the following requirements:
- (i) road crossings on fish-bearing streams shall be designed according to the guidelines set forth in Water Crossing Design Guidelines (Washington Department of Fish and Wildlife, May 9, 2013) or as subsequently amended or revised; and
 - (ii) road crossings shall avoid interrupting natural rates of the downstream movement of woody debris and sediment.
- (e) *Stream conveyances.* Where feasible, stream conveyances shall avoid interrupting natural rates of the downstream movement of woody debris and sediment.
- (f) Docks, piers, and floats are subject to the following requirements:
- (i) use of toxic or treated materials that will come in contact with the water is prohibited;
 - (ii) construction timing shall avoid critical life cycle stages of fish and wildlife;
 - (iii) these structures shall avoid critical saltwater habitats; and
 - (iv) joint use of docks, piers and floats shall be required where feasible. (Added by Amended Ord. 06-061, Aug. 1, 2007, Eff date Oct. 1, 2007; Amended by Amended Ord. 15-034, Sept. 2, 2015, Eff date Nov. 1, 2015; Amended by Amended Ord. 19-020, July 3, 2019, Eff date Oct. 14, 2019).

30.62A.340 Standards and requirements for activities conducted in wetlands.

Protection of wetlands is inextricably linked to protection of the adjacent buffer areas. Standards and requirements for the buffers adjacent to wetlands are found in SCC [30.62A.320](#). Additional standards and requirements for development activities, actions requiring project permits and clearing within wetlands are in this section.

- (1) *Standards for wetlands - prohibitions.* The following actions are prohibited:
- (a) Filling of estuarine wetlands, wetlands listed by the Washington Natural Heritage Program as having High Conservation Value, mature forested wetlands and Category I bogs, and Old Growth Forest Wetlands;

(b) Point discharges of stormwater into Category I bogs; and

(c) Septic systems and effective impervious surfaces within 300 feet of Category I bogs.

(2) *Standards for wetlands - no mitigation required.* All development activities, actions requiring project permits and clearing that do not encroach into wetlands and provide buffers consistent with the requirements of SCC [30.62A.320\(1\)](#) ~~((a) through (f))~~ and the prohibitions in subsection [\(1\)](#) of this section satisfy the avoidance criteria of SCC [30.62A.310\(3\)](#) and do not require mitigation.

(3) *Standards for wetlands - mitigation required.* The actions, structures, and facilities listed in this ~~((section))~~ subsection are allowed only when they are determined to be unavoidable pursuant to SCC [30.62A.310](#), are consistent with the prohibitions in subsection [\(1\)](#) of this section, and are conducted according to the standards and requirements identified in this section. When a permit is required, an applicant must also provide a critical area study meeting the requirements of SCC [30.62A.140](#) and a mitigation plan meeting the requirements of SCC [30.62A.150](#).

(a) New utilities and transportation structures are allowed within wetlands provided no other feasible alternative exists and activities comply with SCC 30.62A.320(2)(a)(iii).

(b) Stormwater ~~((detention/retention))~~ facilities are prohibited in Category I bogs pursuant to subsection [\(1\)\(b\)](#) of this section but are otherwise allowed pursuant to the requirements of SCC [30.63A.570](#) and the Snohomish County Drainage Manual.

(4) *Standards for wetlands - mitigation requirements.*

(a) Mitigation type. Mitigation shall be provided through one of the following mechanisms listed in order of preference:

(i) a mitigation bank established and managed by a third party that meets the requirements in SCC 30.62A.360(2);

(ii) an in-lieu fee program established and managed by a third party that meets the requirements of SCC 30.62A.360(4);

(iii) project proponent mitigation provided that it is demonstrated through a critical areas study pursuant to SCC 30.62A.140 to be ecologically preferable to the third party mitigation options in SCC 30.62A.340(4)(a)(i) and (ii).

~~((a))~~ (b) Mitigation ratios (~~(-Except as provided in subsection (4)(b) of this section, to)~~ (b) . To mitigate the loss of wetland functions, the ratios in Table ~~((4))~~ 5 shall be required except as allowed in SCC 30.62A.340(4)(e). The ratios are expressed in terms of the units of area needed to replace the lost functions and values of the wetland.

(c) The following areas cannot be counted as part of the buffer mitigation area required by the ratios in Table 5:

- (i) Easements for utility corridors, stormwater facilities, rights-of-way, and streams conveyed underground;
- (ii) Driveways;
- (iii) Roads; or
- (iv) Any paved or graveled areas intended to convey vehicle or foot traffic.

~~((b))~~ (d) For temporary impacts, the ratios shall be to be 1:1. Temporary impacts are those that can be restored to pre-disturbance conditions in one growing season.

Table ~~((4))~~ 5 Wetland Mitigation Ratios

Category/Type of Wetland	Creation	Enhancement ¹
All Category IV	1.5:1	3:1
All Category III	2:1	4:1
Category II Estuarine	innovative development only	4:1
All other Category II	3:1	6:1
Category I based on score for functions	4:1	8:1
Category I listed by the Washington	Innovative	Innovative

Category/Type of Wetland	Creation	Enhancement ¹
Natural Heritage Program as having High Conservation Value	development only	development only
Category I Coastal Lagoon	Innovative development only	Innovative development only
Category I Bog, Mature Forest, and Old Growth Forest Wetlands	Not allowed	Innovative design only
Category I Estuarine	Innovative development only	Innovative development only

¹ Enhancement is allowed in lieu of creation for up to one acre of wetland fill

(e) Credit-Debit Method. As an alternative to the mitigation ratios found in Table 5, mitigation based on the Credit-Debit Method developed by the Department of Ecology in Calculating Credits and Debits for Compensatory Mitigation in Wetlands of (Ecology Publication # 10-06-011, or as revised) shall be allowed if the applicant's qualified professional demonstrates the Credit-Debit Method is ecologically preferable.

~~((c)To reduce wetland buffer widths from the width required for high intensity land uses, optional mitigation measures and process requirements may be applied to reduce wetland buffer widths as shown in SCC [30.62A.320\(1\)\(a\)](#) Table 2b.~~

~~((i) Optional mitigation measures. (A) *Mitigation measure 1.* All applicable mitigation measures from Table 5 may be used to mitigate impacts to wetlands from high-intensity land uses. When fencing and/or separate tracts are used pursuant to this section additional buffer width reductions for fencing or separate tracts otherwise allowed in SCC [30.62A.320\(1\)](#) shall not be applied;~~

~~Table 5 Mitigation Measures for High Intensity Land Uses~~

Examples of disturbance	Activities and uses that cause disturbances	Examples of measures to minimize impacts
Lights	 <ul style="list-style-type: none"> • Parking lots • Warehouses • Manufacturing • Residential 	 <ul style="list-style-type: none"> • Direct lights away from wetland —

Examples of disturbance	Activities and uses that cause disturbances	Examples of measures to minimize impacts
Noise	<ul style="list-style-type: none"> • Manufacturing • Residential 	<ul style="list-style-type: none"> • Locate activity that generates noise away from the wetland
Toxic runoff *	<ul style="list-style-type: none"> • Parking lots • Roads • Manufacturing • Residential areas • Landscaping 	<ul style="list-style-type: none"> • Route all new untreated runoff away from wetland while ensuring that wetland is not dewatered • Establish covenants governing use of pesticides within 150 feet of wetland • Apply integrated pest management
Stormwater runoff	<ul style="list-style-type: none"> • Parking lots • Roads • Manufacturing • Residential areas • Commercial/industrial • Landscaping 	<ul style="list-style-type: none"> • Retrofit stormwater detention and treatment for roads and existing adjacent development • Prevent channelized flow from lawns that directly enters buffer
Change in water regime	<ul style="list-style-type: none"> • Impermeable surfaces • Lawns • Tilling 	<ul style="list-style-type: none"> • Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surface and new lawns
Pets and human disturbance	<ul style="list-style-type: none"> • Residential areas 	<ul style="list-style-type: none"> • Use privacy fencing (:)– • plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion (:)– • place wetland and its buffer in a separate tract

* These examples are not necessarily adequate for minimizing toxic runoff if threatened or endangered species are present at the site.

(B) *Mitigation measure 2.* For Category I or II wetlands that score moderate or high for habitat (5 points or more for the habitat functions), a habitat corridor shall be preserved that meets the following criteria:

~~(i) Except as allowed in number (II) below, the habitat corridor shall connect the Category I or II wetland with a habitat score of 5 or more to any other wetland, fish and wildlife habitat conservation area, or buffer which is:~~

~~(aa) on the same property or within the same development, including all phases proposed;~~

~~(bb) on adjacent properties and already protected as Native Growth Protection Areas or Critical Area Protection Areas or other permanently protected open space suitable for wildlife habitat use and which either extends to the property boundary or connected by easement; or~~

~~(cc) on county, state, or federal land used for forestry, conservation, or passive recreation parks.~~

~~(II) The habitat corridor may connect to a stormwater detention facility, either on-site or on an adjacent site, if it is designed to replicate a natural pond or wetland.~~

~~(III) The habitat corridor shall meet the following minimum physical characteristics:~~

~~(aa) The corridor shall consist of a relatively undisturbed, vegetated corridor.~~

~~(bb) The corridor shall maintain an average width equal to the difference between the high intensity buffer and the standard buffer for the relevant Category I or II wetland as shown in Table 6, except when the corridor is connecting two Category I or II wetlands each with a habitat score of 5 or more and the corridor maintains an average width of 100 feet, it will fulfill the connection requirement for both wetlands.~~

((Table 6 Average Width for Habitat Corridor (Feet))

Wetland Category	Description	Standard Buffer Width	High-Intensity Buffer Width	Average Habitat Corridor Width
Category I	Listed by the Washington Natural Heritage Program as having High Conservation Value	190	250	60
	Bogs	190	250	60
	Estuarine (at least 1 acre) & Coastal Lagoons	150	200	50
	High Level Habitat Function (habitat function score is 8 or greater)	225	300	75
	Moderate Level Habitat Function (habitat function score is 5-7)	110	150	40
Category II	Estuarine (less than 1 acre)	110	150	40
	High Level Habitat Function (habitat function score is 5-7)	225	300	75
	Moderate Level Habitat Function (habitat function score is 5-8)	110	150	40

(cc) The corridor shall maintain a width at each connection not less than the required average width as described in subsection Error! Reference source not found. of this section.

~~(dd) The director may approve alternative configurations which meet the intent of no net loss of habitat functions and values pursuant to SCC [30.62A.350](#).~~

~~(IV) The following activities are allowed within the habitat corridor:~~

~~(aa) If the corridor maintains an average width of 100 feet or more, an unpaved trail - narrow single file walking path no bicycles or motorized vehicles allowed - may be allowed.~~

~~(bb) Vegetation management is allowed as follows:~~

~~(A) hazardous tree management - creation of snags and down logs is favored over tree removal whenever possible~~

~~(B) hand removal of invasive plant species~~

~~(C) when trails are allowed as per subsection [\(4\)\(c\)\(i\)\(B\)\(IV\)\(aa\)](#) of this section, minimal trail maintenance is also allowed~~

~~(D) restorative/enhancement plantings with native species to increase species diversity or replace plants lost to disease or damage; and~~

~~(E) planting with native species along outer edge of corridor to increase plant density and discourage disturbance or intrusion.~~

~~(ii) Process requirements in Part 100 shall be supplemented with the necessary information to document the mitigation locations and protection requirements, provide an assessment of functions and values and evaluation of the level of protection achieved by the mitigation measures, and establish provisions for permanent protection.))~~

(Added by Amended Ord. 06-061, Aug. 1, 2007, Eff date Oct. 1, 2007; Amended by Amended Ord. 10-026, June 9, 2010, Eff date Sept. 30, 2010; Amended by Amended Ord. 15-034, Sept. 2, 2015, Eff date Nov. 1, 2015).

30.62A.350 Innovative development design.

(1) A project permit applicant may request approval of an innovative design based on best available science, which addresses wetland, fish and wildlife habitat conservation area, or

buffer treatment in a manner that deviates from the standards contained in Part 300. The applicant shall demonstrate in a critical area study required pursuant to SCC [30.62A.140](#) why the standards of Part 300 cannot be met and how the innovative development design complies with the following requirements:

- (a) The innovative design will achieve protection at least equivalent to the treatment of the functions and values of the critical area(s) which would be obtained by applying the standard prescriptive measures contained in this chapter;
- (b) Applicants for innovative designs are encouraged to consider measures prescribed in guidance documents, such as watershed conservation plans or other similar conservation plans, and low impact stormwater management strategies that address ~~((wetlands))~~ wetland, fish and wildlife habitat conservation area, or buffer protection consistent with this section; ~~((and))~~
- (c) The innovative design will not be materially detrimental to the public health, safety, or welfare or injurious to other properties or improvements located outside of the subject property ~~((:))~~ ; and
- (d) Outside of the specific proposed deviation, the innovative design will comply with all other reporting, monitoring, and performance standards of this chapter.

(2) Applicants proposing development activities on properties designated as Urban Center ~~((Transit Pedestrian Village))~~ Light Rail Community, Mixed Use Corridor, or Urban Village on the county's Future Land Use Map may utilize the innovative design provisions in this section to deviate from the requirements in Part 300. Such deviations may include but are not limited to provisions related to avoidance of impacts, standard buffer widths, allowed uses in buffers and wetlands, and mitigation ratios ~~((and use of off-site mitigation))~~. The applicant shall demonstrate in a critical area study required pursuant to SCC [30.62A.140](#) and mitigation plan pursuant to SCC 30.62A.150:

- (a) Why the deviation is necessary to implement the policies in the county's comprehensive plan ~~((General Policy Plan))~~, including the policies within the Land Use Element under objective LU 3.B, and the Natural Environment Element; and
- (b) How the innovative development design achieves protection at least equivalent to the treatment of the functions and values of the critical area(s) which would be obtained by

applying the standard prescriptive measures contained in Part 300. (Added by Amended Ord. 06-061, Aug. 1, 2007, Eff date Oct. 1, 2007; Amended by Ord. 10-024, June 9, 2010, Eff date Sept. 30, 2010; Amended by Amended Ord. 15-034, Sept. 2, 2015, Eff date Nov. 1, 2015; Amended by Ord. 15-103, Jan. 11, 2016, Eff date Jan. 22, 2016).

30.62A.360 Mitigation banking and in-lieu fee program.

(1) The department may approve the establishment and use of a wetland, fish and wildlife habitat conservation area or buffer mitigation bank to provide mitigation required by this chapter. The department's approval may allow for deviations from the requirements of Parts 100 through 400 with respect to the treatment of wetlands, fish and wildlife habitat conservation areas, or buffers.

(2) Criteria for approval of use of mitigation banks:

(a) The following must have been approved by the county and the federal, state, and local agencies with jurisdiction:

(i) a memorandum of agreement (MOA) defining guidelines for establishing a wetland, fish and wildlife habitat conservation area, or buffer mitigation banking program and an implementation manual establishing a mitigation bank at a specific site; and

(ii) the MOA and/or implementation manual shall include, but not necessarily be limited to, provisions for the following:

(A) specific criteria and standards for use of the mitigation bank;

(B) methods for tracking credits;

(C) an interagency oversight committee composed of representatives from each of the agencies with jurisdiction for the purpose of regulatory review and approval of banking activities;

(D) permanent management and maintenance to assure the long-term viability of the bank site;

(E) professional construction oversight to ensure successful construction of the mitigation bank site;

(F) quantitative and qualitative performance standards;

(G) systematic compliance and performance monitoring to determine the degree to which the site meets performance standards;

(H) a schedule and timeline for compliance and performance monitoring.

(I) contingency plans;

(J) methods to be used to determine the functions and values of replacement wetlands, fish and wildlife habitat conservation area or buffers based on a watershed analysis;

(K) provisions for assuring the funding of long-term maintenance of the bank and performance of mitigation and monitoring requirements;

(L) a description of wetland, fish and wildlife habitat conservation area or buffer mitigation ratios to be used and justification for these ratios based upon best available science. Mitigation ratios will be based upon consideration of factors including but not limited to the likelihood of success of the mitigation, the types and quality of wetland, fish and wildlife habitat conservation areas or buffers involved, research results, and monitoring results;

(M) the mitigation plan requirements contained in SCC [30.62A.150](#); and

(N) provisions for mitigation sequencing that requires at minimum that all proposals using a mitigation bank shall have made reasonable efforts to avoid and minimize impacts to wetlands, fish and wildlife habitat conservation areas, and buffers.

(b) Credits from a wetland mitigation bank certified under Chapter 173-700 WAC may be used to compensate for impacts located within the service area specified in the mitigation bank instrument if all the following are met:

(i) The department determines that it would provide appropriate compensation for the proposed impacts;

(ii) The proposed use of credits is consistent with the terms and conditions of the mitigation bank instrument; and

(iii) Mitigation ratios are consistent with ratios specified in the mitigation bank instrument.

(c) The use of the mitigation bank will result in equivalent treatment of the functions and values of the wetland, fish and wildlife habitat conservation area or buffer to offset the impacts to critical areas functions and values on the project site such that the total net impact will be no net loss of critical area functions and values in the watershed in which the impacts will occur. For the purposes of this section, "watershed" means an area identified as a state of Washington water resource inventory area (WRIA) under WAC [173-500-040](#).

(d) The creation and operation of the mitigation bank and development activity which utilizes the wetland, fish and wildlife habitat conservation area or buffer bank, shall not create unmitigated long term or permanent adverse impacts to the critical functions and values of the wetlands, fish and wildlife habitat conservation areas or buffers in the sub-drainage basin in which the impacts will occur. Critical functions and values listed at SCC [30.62A.220](#) are those that are important to the long-term ecological viability of the wetlands, fish and wildlife habitat conservation areas or buffers in the sub-drainage basin.

(3) The department shall make MOAs and mitigation banking documents available for public review and comment prior to approval.

(4) In-lieu fee mitigation. The department may approve the establishment and use of a wetland, fish and wildlife habitat conservation area, or buffer mitigation in-lieu fee program to provide mitigation required by this chapter.

(a) Credits from an approved ILF program may be used when all the following apply:

(i) In-lieu fee mitigation shall be established in accordance with the guidance contained in "Guidance on In-lieu Fee Mitigation" (Washington State Department of Ecology, December 2012, or latest edition, Publication #12-06-012).

(ii) The department determines that it would provide appropriate compensation for the proposed impacts.

(iii) The proposed use of credits is consistent with the terms and conditions of the approved ILF program instrument.

(iv) Projects using ILF credits shall have debits associated with the proposed impacts calculated by the applicant's qualified wetland professional using the credit assessment method specified in the approved instrument for the ILF program.

(v) The impacts are located within the service area specified in the approved ILF instrument.

PART 400 Critical Species and State Natural Habitats.

30.62A.410 Purpose.

This Part establishes standards and requirements for the protection of critical species and state natural habitats, which includes:

- (1) Species listed as threatened or endangered under RCW [77.12.020](#) and Title [16](#) United States Code;
- (2) Species and habitats of local importance designated under SCC [30.62A.470](#); ~~((and))~~
- (3) The following Washington State listed sensitive species:
 - (a) Larch mountain salamander;
 - (b) Common loon;
 - (c) ~~-(Peregrine falcon;)~~
 - ~~((d))~~ Olympic mudminnow;
 - ~~((e))~~ (d) Pygmy whitefish;
 - ~~((f))~~ (e) Gray whale; and
 - ~~((g) —Bald eagle; and)~~
 - ~~((h))~~ (f) Margined sculpin.

(4) State natural area preserves, natural resource conservation areas, and state wildlife areas, collectively referred to as "state natural habitats."

(Added by Amended Ord. 06-061, Aug. 1, 2007, Eff date Oct. 1, 2007; Amended by Amended Ord. 15-034, Sept. 2, 2015, Eff date Nov. 1, 2015; Amended by Ord. 17-039, July 12, 2017, Eff date Aug. 3, 2017).

30.62A.420 Applicability.

(1) The provisions of this Part shall apply as of the effective date of the listing to all development activities, actions requiring project permits and clearing occurring on a site containing a primary association area for a critical species. The provisions of this Part shall also apply to all development activities, actions requiring project permits and clearing within a state natural habitat. The provisions of this Part shall apply in addition to any other requirements of this chapter.

(2) Actions subject to this chapter not requiring a project permit should consult with state or federal resource agencies with technical expertise and/or regulatory authority over such critical species or necessary protection measures and comply with the administrative rules for the species adopted pursuant SCC [30.62A.430](#). (Added by Amended Ord. 06-061, Aug. 1, 2007, Eff date Oct. 1, 2007; Amended by Ord. 17-039, July 12, 2017, Eff date Aug. 3, 2017).

30.62A.430 Administrative rules authorized.

In order to protect critical species and their habitats and state natural habitats, the department shall develop administrative rules under chapter [30.82](#) SCC that establish protection requirements specific to these species and their habitats and state natural habitats. (Added by Amended Ord. 06-061, Aug. 1, 2007, Eff date Oct. 1, 2007; Amended by Amended Ord. 15-034, Sept. 2, 2015, Eff date Nov. 1, 2015; Amended by Ord. 17-039, July 12, 2017, Eff date Aug. 3, 2017).

30.62A.440 Administrative rules - minimum protection requirements.

In developing administrative rules under this section, the department shall consider establishing at least the following minimum protections:

- (1) Establishment of the primary association area. For critical species that are fish, the primary association area includes, but is not limited to, the buffer of the associated stream, lake, wetland, and marine water;
- (2) Limitation on development activities within the primary association area;
- (3) Limitation on access to the primary association area;
- (4) Provisions for seasonal restrictions on construction activities where appropriate;
- (5) Preservation of habitat for the critical species;
- (6) Permanent protection pursuant to SCC [30.62A.160](#); and
- (7) Protection of state natural habitats. (Added by Amended Ord. 06-061, Aug. 1, 2007, Eff date Oct. 1, 2007; Amended by Ord. 17-039, July 12, 2017, Eff date Aug. 3, 2017).

30.62A.450 General standards and requirements.

Proponents for all development activities, actions requiring project permits or clearing shall make all reasonable efforts to avoid and minimize impacts to critical species and state natural habitats pursuant to the requirements of this section, in the following sequential order of preference:

- (1) Avoid impacts altogether by not taking a certain action or parts of an action; or
- (2) When avoidance is not possible, minimize impacts by limiting the degree or magnitude of the action and its implementation, using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts; and
- (3) Comply with rules adopted pursuant to SCC [30.62A.430](#) and a habitat management plan when required pursuant to SCC [30.62A.460](#). (Added by Amended Ord. 06-061, Aug. 1, 2007, Eff date Oct. 1, 2007; Amended by Ord. 17-039, July 12, 2017, Eff date Aug. 3, 2017).

30.62A.460 Habitat assessment and management plan contents.

For any development activity or action requiring a project permit occurring within the primary association area of a critical species ~~((or))~~ state natural habitats, or special flood hazard areas, the ~~((director))~~ department may require all or a portion of the following:

- (1) A critical area study meeting the requirements of SCC [30.62A.140](#);
- (2) A map drawn to scale or survey showing the location and description of the primary association area(s) of the critical species or state natural habitats on the subject property;
- (3) Evidence of use of the site by a critical species, including the location and nature of use;
- (4) An assessment of how the proposed activities will affect the critical species and/or its habitat or the state natural habitat, and how the proposal will avoid, minimize or mitigate impacts to those critical species and their habitats or state natural habitats pursuant to SCC [30.62A.450](#). The department shall waive this requirement when a proposed activity is consistent with the protection standards adopted in an administrative rule developed pursuant to SCC [30.62A.430](#); and

(a) If applicable, the assessment shall include a description of the impact of the proposed development on existing floodplain and instream habitat functions and processes prepared in accordance with Regional Guidance for Floodplain Habitat Assessment and Mitigation, (FEMA Region X, 2010, or most up to date);

- (5) In the absence of an adopted administrative rule governing a listed species or state natural habitat, the applicant shall provide a habitat management plan consistent with the minimum requirements of SCC [30.62A.440](#). In addition, the habitat management plan shall contain an assessment of best available science applicable to the species or the state natural habitat, demonstrating how the proposal will provide sufficient protection of the critical species and its habitat or the state natural habitat. Applicants are encouraged to consult with the department, and federal and state agencies with technical expertise or regulatory jurisdiction.

(Added by Amended Ord. 06-061, Aug. 1, 2007, Eff date Oct. 1, 2007; Amended by Ord. 17-039, July 12, 2017, Eff date Aug. 3, 2017).

30.62A.470 Species of local importance.

This section provides the process for the designation, nomination, and protection of species and habitats of local importance. The designation, nomination, and protection strategies shall be based on best available science.

(1) Designation criteria.

(a) Designation of species or habitats of local importance must be based on both the following circumstances:

- (i) protection of the native species and its primary association area through existing policies, laws, regulations, or non-regulatory tools is not adequate to prevent degradation of the species in the county; and
- (ii) the primary association area nominated to protect a particular species is high quality native habitat or has a high potential to be high quality habitat, or provides landscape connectivity which contributes to the designated species' preservation.

(b) In addition to the requirements in SCC [30.62A.470\(1\)\(a\)](#), designation of species or habitats of local importance must also be based on one or more of the following circumstances:

- (i) local populations of a native species are in danger of extirpation based on existing trends;
- (ii) local populations of a native species are likely to become threatened or endangered under state or federal law;
- (iii) local populations of a native species are vulnerable or declining;
- (iv) the native species has recreational, commercial, or tribal significance; ~~((or))~~
- (v) long-term persistence of a native species is dependent on the protection, maintenance, and/or restoration of the nominated primary association area~~((:))~~ ;
- (vi) The Washington Natural Heritage Program prioritizes the species or habitat; or
- (vii) The Washington Department of Fish and Wildlife identifies the species or habitat within their Priority Habitats and Species (PHS) Program.

(2) *Petition Contents.* The petition to nominate a species or habitat of local importance shall contain all the following:

- (a) A map showing the nominated primary association area location(s);
- (b) An environmental checklist in conformance with SCC;
- (c) A written statement that
 - (i) identifies which designation criteria form the basis of the nomination;
 - (ii) includes supporting evidence that designation criteria are met; and
 - (iii) indicates what specific habitat feature(s) or plant communities are to be protected (e.g., nest sites, breeding areas, and nurseries);
- (d) Recommended management strategies for the species, supported by the best available science and which meet the minimum requirements of SCC [30.62A.440](#); and
- (e) An economic analysis identifying the cost of implementing a mitigation or protection plan and the financial impact of the requested designation on affected properties or local governments.

(3) *Approval Process.*

- (a) *Timing.* Nominations for species or habitats of local importance will be considered by the council no more than once per year. The department will accept proposals for amendments at any time; however, proposals received after July 31st of each year will be processed in the next annual review cycle.
- (b) *Process.* The county may include a species or habitat of local importance for protection pursuant to this section through adoption of legislation by the council. The council considers whether to adopt a motion to list a species or habitat of local importance through the following process:
 - (i) any person may nominate species for designation by submitting a petition meeting the requirements of SCC [30.62A.470\(2\)](#) and payment of fees as required by chapter [30.86](#) SCC;

- (ii) the department shall complete a SEPA threshold determination and provide notice of the petition as required under SCC [30.70.045](#) for SEPA threshold determinations associated with a project permit;
 - (iii) the department shall review the submittal of the petitioner, and coordinate and assemble all available comments of the public, other county departments, and other agencies. Based on the available record, and any other information that may be available, the department shall provide a staff report and recommendation to the council concerning whether the petition meets the requirements for approval;
 - (iv) the department shall submit to the executive an executive/council approval form (ECAF) containing the staff recommendation, all relevant SEPA documents, and a proposed motion which provides for disposition of the petition; and
 - (v) upon delivery of an ECAF to the council by the executive, the proposed motion will be subject to the requirements of chapter [2.48](#) SCC.
- (c) *Cost of environmental studies.* Any person submitting a petition to nominate a species of local importance shall pay the cost of environmental review and studies necessary under SEPA, as required under chapter [30.61](#) SCC. The person may, at his or her own expense and to the extent determined appropriate by the responsible official, provide additional studies or other information.
- (4) *Establishment of specific rules for protection.* Within 120 days of an action by the council, the department shall develop an administrative rule pursuant to chapter [30.82](#) SCC addressing protection of the species of local importance in compliance with this section.
- (5) The department may establish administrative procedures necessary to administer this section. (Added by Amended Ord. 06-061, Aug. 1, 2007, Eff date Oct. 1, 2007).

PART 500 Exceptions.

30.62A.510 Minor development activity exceptions.

- (1) Certain minor development activities may occur in or cause impacts to wetlands, fish and wildlife habitat conservation areas, or buffers provided the project proponent complies with

best management practices (BMPs) adopted through rulemaking pursuant to chapter [30.82](#) SCC and all known and available reasonable technology (AKART) appropriate for compliance with this chapter. ~~((Best management practices))~~ BMPs are physical, structural, or managerial practices which have gained general acceptance by professionals in the appropriate field to minimize and mitigate adverse impacts to the functions and values of critical areas.

(2) All minor development activities authorized in ~~((this section))~~ SCC 30.62A.510(1) through (3) shall comply with administrative BMP rules upon adoption. Prior to adoption of such administrative rules, project proponents shall comply with all known and available BMPs as defined in subsection [\(1\)](#) of this section. The ~~((director))~~ department shall adopt BMPs for the minor development activities listed in this section pursuant to the rulemaking provisions of chapter [30.82](#) SCC.

(3) The following minor development activities may occur pursuant to this section:

(a) Normal maintenance and repair that does not expand the footprint of existing:

- (i) improved public and private road rights-of-way,
- (ii) utility corridors,
- (iii) trails,
- (iv) utility facilities,
- (v) flood protection and bank stabilization structures,
- (vi) stormwater facilities; and
- (vii) structures;

(b) Minor replacement, modification, extension, installation, or construction by a utility purveyor in an improved public road right-of-way;

(c) Survey or monument placement;

(d) Minor replacement or modification of existing facilities by a utility purveyor in an improved utility corridor;

(e) Minor replacement or modification by a utility purveyor of individual utility service lines connecting to a utility distribution system;

(f) Minor replacement, modification, minor installation or construction in an improved road right-of-way by the county or by the holder of a current right-of-way use permit;

~~((g) All development activities in non-riparian Category II and III wetlands smaller than 5,000 square feet, and non-riparian Category IV wetlands smaller than 10,000 square feet, and their associated buffers;))~~

(g) Forest Practices that are exempt from local regulation and conducted pursuant to the Forest Practices Act, chapter 76.09 RCW, and implementing regulations in title 222 WAC. This section does not apply to development activity or actions requiring a Class IV General forest practices permit pursuant to chapter 30.43F SCC;

(h) Removal of invasive weeds by hand;

(i) Felling or topping of hazardous trees based on review by a qualified arborist;

(j) Minor replacement, modification, or installation of enhancement projects related to drainage, water quality, or habitat ~~((enhancement projects))~~;

(k) All other on-going lawfully established development activities not specifically addressed in this chapter; ~~((and))~~

(l) Site investigative work necessary for land use application submittals pursuant to this title, such as surveys, soil borings, test pits, percolation tests, non-mechanical survey monument placement, data collection by non-mechanical means or other related activities, provided that the work is otherwise consistent with the provisions of other local, state, and federal laws and regulations. Land disturbance shall be no greater than that necessary to accomplish the site investigative work and disturbed areas shall be restored to pre-disturbance conditions in one growing season ~~((;))~~ ; and

(m) Conservation or preservation of soil, water, vegetation, fish, shellfish, and/or other wildlife that does not entail changing the structure or functions of the existing critical area.

(4) Category IV wetlands less than 4,000 square feet that meet the following criteria as demonstrated through a critical areas study under SCC 30.62A.140 may be filled provided their impacts are fully mitigated SCC 30.62A.340:

(a) the wetland is not associated with fish and wildlife conservation areas or their buffers;

(b) the wetland is not associated with shorelines of statewide significance or their buffers;

(c) the wetland is not part of a wetland mosaic consisting of multiple small wetlands (Hruby, T., October 2014, Department of Ecology, Publication #14-06-029, or latest edition);

(d) the wetland does not have a habitat function score of 6 or more points; and

(e) the wetland is not a primary association area for critical species, located in a state natural habitat, or mapped as a priority habitat and species area by the Washington Department of Fish and Wildlife.

(5) Category IV wetlands less than 1,000 square feet that meet the criteria in SCC 30.62A.510(4)(a) through (f) as demonstrated through a critical areas study under SCC 30.62A.140 are exempt from the buffer requirements contained in this chapter.

(Added by Amended Ord. 06-061, Aug. 1, 2007, Eff date Oct. 1, 2007; Amended by Amended Ord. 15-034, Sept. 2, 2015, Eff date Nov. 1, 2015).

30.62A.520 Single family residential development exceptions in buffers.

New single family residential development, expansions of existing single family residences, and ordinary residential improvements on lots existing prior to October 1, 2007, are allowed in buffers only as follows:

- (1) The development cannot feasibly comply with the ~~((standard))~~ buffer width requirements contained in PART [300](#) of this chapter;
- (2) The development shall not disturb more than 4,000 square feet of the buffer;
- (3) There is not 4,000 square feet of area available for the development outside of the standard buffer;
- (4) ~~To the extent feasible, ((total effective new impervious areas shall be limited to 10 percent within 300 feet of all waters containing salmonids and bogs))~~ the development shall comply with the provisions of new effective impervious surface restrictions within SCC 30.62A.320(1)(d);

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- (5) Expansion of an existing single family residence or accessory structure may be allowed within a buffer provided the footprint of the expansion does not exceed 50 percent of the existing structure or 2,000 square feet, whichever is less, and the expansion is set back from the critical area a distance which is greater than or equal to the setback of the original structure;
- (6) For new single family development, there must be no alternate location for the development outside of the buffer;
- (7) Development in the buffer shall be located to avoid impacts to critical species;
- (8) The buffer shall not be reduced to less than one half of the standard buffer as provided at SCC [30.62A.320\(1\)\(a\)](#) or 25 feet, whichever is greater, provided that access road crossing may encroach further into the buffer when there are no feasible alternatives;
- (9) To the maximum extent feasible, the development shall be designed to avoid the removal of existing native vegetation with an emphasis on preservation of conifers greater than or equal to 24 inches diameter at breast height (dbh), and hardwoods greater than or equal to 20 inches dbh;
- (10) Utility service lines servicing a single family residence may be allowed in areas of the buffer containing native vegetation provided that the removal of any vegetation within the buffer shall be the minimum necessary to install the lines;
- (11) A permanent fence or other equivalent visual and physical barrier shall be installed along the edge of the reduced buffer, provided that the barrier may be installed at the edge of the naturally or restored vegetated part of the buffer;
- (12) ~~((Mitigation))~~ The applicant shall submit a mitigation plan pursuant to SCC 30.62A.150 for any encroachment into the buffer. Mitigation shall include, where beneficial, enhancement of existing buffers on the site based on the following criteria:
- (a) The enhanced buffer should be located between the residential structures and improvements and the aquatic critical area; and
 - (b) The ratio of the area of buffer enhanced to the area of the buffer encroached upon should be 2 to 1. (Added by Amended Ord. 06-061, Aug. 1, 2007, Eff date Oct. 1, 2007; Amended by Amended Ord. 15-034, Sept. 2, 2015, Eff date Nov. 1, 2015).
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30.62A.530 Emergency activities.

Emergency activities necessary to prevent an immediate threat to public health, safety, welfare, or property, or to prevent an imminent threat of serious environmental degradation, are allowed without prior approval in wetlands, fish and wildlife habitat conservation areas or buffers, based on the criteria set forth in this section:

- (1) The activity must be the minimum necessary to alleviate the emergency;
- (2) The project proponent shall notify the department prior to any action taken to remedy an emergency. If prior notification is not feasible, the project proponent shall notify the department within 48 hours of the action; and
- (3) Applications for any required project permits necessary to satisfy compliance with this chapter are submitted to the department within 120 days of the start of the action taken. For actions not requiring permits, compliance with this chapter shall occur within a reasonable time period not to exceed twelve months. (Added by Amended Ord. 06-061, Aug. 1, 2007, Eff date Oct. 1, 2007).

30.62A.540 Reasonable use.

- (1) A project permit applicant who is unable to comply with the specific standards of this chapter without forfeiting all economically viable use of the property may seek approval of a "reasonable use" allowance under this section. The application must be made on a form provided by the department and accompany a project permit application.
- (2) To qualify as a reasonable use, the ~~((director))~~ department shall find that the proposal meets the following criteria:
 - (a) Application of this chapter will deny all economically viable use of the subject property. In making this determination, the ~~((director))~~ department shall also determine that:
 - (i) the subject property is an existing legal lot and the inability to derive reasonable use of the subject property is not the result of actions by the applicant in segregating, dividing, or creating a condition on the site after April 1, 1995; and

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- (ii) the inability to derive all reasonable use of the subject property is not the result of prior actions taken in violation of this title or any other local, state, or federal law or regulation; and
- (b) The proposed development activity meets all other requirements of this title, does not otherwise constitute a nuisance or pose a threat to public health, safety, and welfare on or off the site.
- (3) If the ~~((director))~~ department determines that a project permit application meets the requirements of SCC [30.62A.540\(2\)](#), the project permit application may be approved where the ~~((director))~~ department finds:
- (a) The applicant has complied with Part [100](#) of this chapter;
- (b) After review of the project under this chapter, there is no other permitted use of the property with less impact on wetlands, fish and wildlife habitat conservation areas, or buffers;
- (c) The proposed alteration of a wetland, fish and wildlife habitat conservation area, or buffer is the minimum necessary to allow for reasonable use of the property. Activities shall be located as far away as possible from wetlands, fish and wildlife habitat conservation areas, and buffers and low impact development techniques shall be used to the maximum extent possible. In all cases, disturbance of a wetland, stream, marine water, or lake may only occur if no reasonable use can be achieved by disturbance of a buffer associated with that feature;
- (d) The proposed activity is located to minimize impacts to critical species;
- (e) If a reasonable use of a parcel cannot exist without modification of the required front, side, or rear setbacks or other bulk standards, the department may consider modifying those standards only to the extent necessary to provide for a reasonable use, while providing as much protection as is possible under the circumstances to critical areas, while maintaining the public health, safety, and welfare. This section shall not relieve an applicant from the obligation of complying with applicable variance procedures set forth in chapters [30.43B](#) and [30.43E](#) SCC or other applicable modification procedures adopted under this title; ~~((and))~~
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(f) ~~((To the greatest extent feasible, the))~~ The project ((includes compensation and))
proponent shall provide mitigation for unavoidable impacts to the functions and values of
critical areas regulated under this chapter in accordance with the requirements of SCC
30.62A.150((-)); and

(g) The maximum disturbance area impacting critical areas and buffers may be no larger
than 4,000 square feet. This shall be inclusive of the primary structure as well as
appurtenant development that is necessarily connected to the use and enjoyment of the
primary use. Appurtenant developments may include garages, decks, driveways, parking,
on-site septic system, and all lawn and other nonnative landscaping. (Added by Amended Ord.
06-061, Aug. 1, 2007, Eff date Oct. 1, 2007).

~~((30.62A.550 Mitigation banking and in lieu fee program.~~

~~(1) The director may approve the establishment and use of a wetland, fish and wildlife habitat
conservation area or buffer mitigation bank to provide mitigation required by this chapter. The
director's approval may allow for deviations from the requirements of Parts 100 through 400
with respect to the treatment of wetlands, fish and wildlife habitat conservation areas, or
buffers.~~

~~(2) Criteria for approval of use of mitigation banks:~~

~~(a) The following must have been approved by the county and the federal, state, and local
agencies with jurisdiction:~~

~~(i) a memorandum of agreement (MOA) defining guidelines for establishing a wetland,
fish and wildlife habitat conservation area, or buffer mitigation banking program and
an implementation manual establishing a mitigation bank at a specific site; and~~

~~(ii) the MOA and/or implementation manual shall include, but not necessarily be
limited to, provisions for the following:~~

~~(A) specific criteria and standards for use of the mitigation bank;~~

~~(B) methods for tracking credits;~~

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- ~~(C) an interagency oversight committee composed of representatives from each of the agencies with jurisdiction for the purpose of regulatory review and approval of banking activities;~~
 - ~~(D) permanent management and maintenance to assure the long-term viability of the bank site;~~
 - ~~(E) professional construction oversight to ensure successful construction of the mitigation bank site;~~
 - ~~(F) quantitative and qualitative performance standards;~~
 - ~~(G) systematic compliance and performance monitoring to determine the degree to which the site meets performance standards;~~
 - ~~(H) a schedule and timeline for compliance and performance monitoring;~~
 - ~~(I) contingency plans;~~
 - ~~(J) methods to be used to determine the functions and values of replacement wetlands, fish and wildlife habitat conservation area or buffers based on a watershed analysis;~~
 - ~~(K) provisions for assuring the funding of long-term maintenance of the bank and performance of mitigation and monitoring requirements;~~
 - ~~(L) a description of wetland, fish and wildlife habitat conservation area or buffer mitigation ratios to be used and justification for these ratios based upon best available science. Mitigation ratios will be based upon consideration of factors including but not limited to the likelihood of success of the mitigation, the types and quality of wetland, fish and wildlife habitat conservation areas or buffers involved, research results, and monitoring results;~~
 - ~~(M) the mitigation plan requirements contained in SCC [30.62A.150](#); and~~
 - ~~(N) provisions for mitigation sequencing that requires at minimum that all proposals using a mitigation bank shall have made reasonable efforts to avoid and minimize impacts to wetlands, fish and wildlife habitat conservation areas, and buffers.~~
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~~(b) The use of the mitigation bank will result in equivalent treatment of the functions and values of the wetland, fish and wildlife habitat conservation area or buffer to offset the impacts to critical areas functions and values on the project site such that the total net impact will be no net loss of critical area functions and values in the watershed in which the impacts will occur. For the purposes of this section, "watershed" means an area identified as a state of Washington water resource inventory area (WRIA) under WAC [173-500-040](#).~~

~~(c) The creation and operation of the mitigation bank and development activity which utilizes the wetland, fish and wildlife habitat conservation area or buffer bank, shall not create unmitigated long term or permanent adverse impacts to the critical functions and values of the wetlands, fish and wildlife habitat conservation areas or buffers in the sub-drainage basin in which the impacts will occur. Critical functions and values listed at SCC [30.62A.220](#) are those that are important to the long-term ecological viability of the wetlands, fish and wildlife habitat conservation areas or buffers in the sub-drainage basin.~~

~~(3) The director shall make MOAs and mitigation banking documents available for public review and comment prior to approval.~~

~~(4) In-lieu fee mitigation.~~

~~(a) The director may approve the establishment and use of a wetland, fish and wildlife habitat conservation area, or buffer mitigation in-lieu fee program to provide mitigation required by this chapter. The director's approval may allow for deviations from the requirements of Parts [100](#) through [400](#) of this chapter with respect to the treatment of wetlands, fish and wildlife habitat conservation areas or buffers.~~

~~(b) In-lieu fee mitigation shall be established in accordance with the guidance contained in "Guidance on In-lieu Fee Mitigation" (Washington State Department of Ecology, December 2012, or latest edition, Publication #12-06-012).))~~

(Added by Amended Ord. 06-061, Aug. 1, 2007, Eff date Oct. 1, 2007; Amended by Amended Ord. 15-034, Sept. 2, 2015, Eff date Nov. 1, 2015).

PART 600 Agricultural Activities.

30.62A.605 Purpose.

In accordance with RCW [36.70A.020](#), the Growth Management Act (GMA) goals require the county to maintain and enhance natural resource-based industries, including commercial agriculture. This Part implements the necessary balance between goals 8 and 10 of the GMA relative to commercial agriculture and the protection of critical areas. (Added by Amended Ord. 06-061, Aug. 1, 2007, Eff date Oct. 1, 2007).

30.62A.610 Applicability.

This Part applies to agricultural activities as defined in SCC [30.91A.090](#) or [30.91A.092](#), occurring on lands where agriculture is a legal use, where critical areas defined as wetlands or fish and wildlife habitat conservation areas, or their buffers are present on the site and could potentially be impacted by the agricultural activities. (Added by Amended Ord. 06-061, Aug. 1, 2007, Eff date Oct. 1, 2007; Amended by Amended Ord. 13-042, July 10, 2013, Eff date July 22, 2013).

30.62A.620 General Agricultural Standards.

Except as provided in SCC [30.62A.630](#), normal agricultural activities as defined in SCC [30.91A.090](#) or [30.91A.092](#), subject to this Part 600, are in compliance with this chapter when those activities are performed in accordance with subsection [\(1\)](#), [\(2\)](#) or [\(3\)](#) of this section:

- (1) The best management practices contained in the latest edition of the USDA Natural Resources Conservation Service (NRCS) Field Office Technical Guide (FOTG);
- (2) Other recognized best management practices for such activity that protect the functions and values of critical areas, such as those described in the Voluntary Clean Water Guidance for Agriculture, Washington State Department of Ecology, (Publication No. 20-10-008, August 2023, or as revised), where the NRCS FOTG does not provide specific guidance or a best management practice; or

(3) A farm conservation plan that includes provisions addressing critical areas protection specific to the farm site recommended by the NRCS or the Snohomish conservation district (SCD), approved by the county and signed by the landowner. Any confidential or proprietary information contained in a farm conservation plan may be redacted prior to public disclosure. (Added by Amended Ord. 06-061, Aug. 1, 2007, Eff date Oct. 1, 2007; Amended by Amended Ord. 13-042, July 10, 2013, Eff date July 22, 2013; Amended by Amended Ord. 15-034, Sept. 2, 2015, Eff date Nov. 1, 2015).

30.62A.630 Special Agricultural Conditions.

(1) Notwithstanding SCC [30.62A.620](#), agricultural activities as defined in SCC [30.91A.090](#) or [30.91A.092](#) subject to this Part 600 that meet one or more of the following special conditions shall comply with subsection [\(2\)](#) of this section:

- (a) Agricultural activities that require a county permit or project approval except for a flood hazard permit required pursuant to chapter [30.43C](#) SCC;
- (b) In certain special flood hazard areas designated by the Federal Emergency Management Agency (FEMA) as specified in SCC [30.65.040](#), the construction of agricultural access or service roads greater than six inches average and twelve inches maximum height above grade;
- (c) Agricultural activities that occur in a wetland, except where:
 - (i) The activity is exempt from wetland regulation under Section 404(f) of the federal Clean Water Act;
 - (ii) The activity is occurring in a non-riparian Category II or III wetland that is no greater than 5,000 square feet in size; or
 - (iii) The activity is occurring in a non-riparian Category IV wetland that is no greater than 10,000 square feet in size; and
- (d) Agricultural activities that bring land into agricultural use by removal of native woody vegetation or alteration of surface or ground water flows, other than that which results from normal cultivation.

(2) The agricultural activities listed in subsection (1) of this section are in compliance with this chapter when those activities are performed as follows:

- (a) The activity complies with Parts [000](#) through [500](#) of this chapter;
- (b) The activity is done in compliance with a farm conservation plan, as described in SCC [30.62A.620\(3\)](#); or
- (c) The ~~((director))~~ department issues a written decision finding that the landowner's compliance with other state or federal regulations or permits provides sufficient protection on the site to satisfy related critical areas requirements of this chapter. (Added by Amended Ord. 06-061, Aug. 1, 2007, Eff date Oct. 1, 2007; Amended by Amended Ord. 15-034, Sept. 2, 2015, Eff date Nov. 1, 2015).

30.62A.640 Farm conservation plans and best management practices.

(1) Farm conservation plans and best management practices described in SCC [30.62A.620](#) are subject to the approval of the county.

(2) Farm conservation plans and best management practices shall:

- (a) Specify when implementation will occur relative to project construction;
- (b) Include provisions for monitoring and maintenance on a long term basis to determine whether the practices are successful. The length of time for monitoring and maintenance should be sufficient to determine if performance standards have been achieved; and
- (c) Include provisions on a form approved by the department for the right to entry to the county for the purpose of inspection for the length of the monitoring and maintenance period. Prior to a site inspection the county shall provide reasonable notice to the property owner as to the purpose and need for entry.

(3) The county and/or the farm operator shall monitor and report farm plan implementation and compliance provided in the farm plan. The farm plan should include periodic inspections by the county for the first two years after permit issuance or self-assessment and certification by the operator, or by other appropriate means thereafter as determined by the county.

(4) Agricultural operations shall cease to be in compliance with this chapter when the department determines one of the following three conditions is met. In such an event, a new or revised farm conservation plan may be required or the noncompliance may be referred to the appropriate agency for enforcement:

- (a) The operator fails to implement and maintain the farm plans and/or best management practices;
- (b) It has been determined by the county that the farm conservation plan and/or best management practices fails to protect critical areas. If so a new or revised plan shall be required; or
- (c) Substantial changes in the agricultural activities of the operation have occurred which render the current plan ineffective.

(5) The county shall only retain summary information of that portion of the plan needed for permit approval, including the general location of the operation, the nature of the activity, required permits and specific best management practices. The summary information shall be supplied to the county by the operator and used to document the basis for the county's approval of the plan. Any confidential or proprietary information contained in a farm conservation plan may be redacted prior to public disclosure. (Added by Amended Ord. 15-034, Sept. 2, 2015, Eff date Nov. 1, 2015).

PART 700 Monitoring and Adaptive Management.

30.62A.710 Monitoring and adaptive management program.

The Executive shall develop and implement a monitoring and adaptive management program to establish a baseline and provide performance measures to determine whether the County is achieving no net loss through its policies and programs affecting wetlands and fish and wildlife habitat conservation areas, in conformance with the Natural Environment Element of the ((General Policy Plan of the)) comprehensive plan. The program along with a budget shall be submitted for approval to the County Council within six months of the effective date of this ordinance. (Added by Amended Ord. 06-061, Aug. 1, 2007, Eff date Oct. 1, 2007).

30.62A.720 Monitoring and adaptive management program - contents.

- (1) Monitored critical areas shall include wetlands and fish and wildlife habitat conservation areas.
 - (2) The purpose of the monitoring and adaptive management program is to
 - (a) Identify and collect meaningful data concerning the effectiveness of the county's programs and policies concerning protection of wetlands and fish and wildlife habitat conservation areas; and
 - (b) Identify corrective actions in response to a clear indication that the county's programs are not sufficient to actually protect wetlands and fish and wildlife habitat conservation areas.
 - (3) The monitoring and adaptive management program shall be based on best available science, and shall incorporate the following:
 - (a) Benchmarks that describe the state of existing functions and values of the monitored critical areas and that are tied to the protective measures being assessed;
 - (b) Data collection methods that provides accurate measurements of the functions and values of the monitored critical areas and that are tied to the protective measures being assessed, including appropriate time periods for collection of data;
 - (c) Threshold levels for addressing management practices, regulations and other measures that are determined through data collection and monitoring to be negatively affecting functions and values of monitored critical areas. Thresholds are to be set in light of the benchmarks for existing conditions and in accordance with scientifically-based habitat minimums; and
 - (d) Strategies for adaptive management or addressing change to provide for expeditious action in reaction to reaching a threshold level. The monitoring and adaptive management program may provide for different strategies for action, depending on the critical area being monitored, the cause of the negative impacts to functions and values, and other variables. (Added by Amended Ord. 06-061, Aug. 1, 2007, Eff date Oct. 1, 2007).
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30.62A.730 Monitoring and adaptive management program - reporting.

One year prior to the GMA (RCW [36.70A.130](#)) required review and update of the county's critical area regulations, the executive shall report to the council on the monitoring and adaptive management program, using best available science, and provide data and conclusions regarding the effectiveness of the county in achieving no net loss of critical area functions and values. If net loss is detected, using scientifically valid techniques, the executive shall report and recommend strategies for adaptive management. (Added by Amended Ord. 06-061, Aug. 1, 2007, Eff date Oct. 1, 2007; Amended by Amended Ord. 15-034, Sept. 2, 2015, Eff date Nov. 1, 2015).